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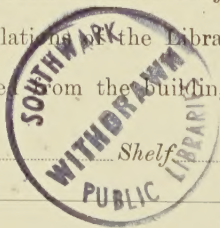
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The Forest of Essex:

ITS

HISTORY, LAWS, ADMINISTRATION

AND ANCIENT CUSTOMS,

AND

THE WILD DEER WHICH LIVED IN IT.

With Maps and other Illustrations.

BY

WILLIAM RICHARD FISHER,

OF LINCOLN'S INN, BARRISTER-AT-LAW.

Author of "The Law of Mortgage and other Securities upon Property."



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PREFACE.

HISTORIANS, following the old chroniclers, or one another, have dwelt much upon the cruelties practised under the Forest laws, but have told us very little about the Royal Forests themselves or their Purlieus; or of the manner in which the laws were administered.

Of the Forest of Essex in particular we have little or no information from the County historians, beyond occasional notices of the holders of Forest offices, or of the position of their estates within the bounds of the Forest.

Yet the district which from time immemorial was Royal Forest formed no small part of the County; and nearly the whole of it was at one time or another made subject to the Forest laws. The encroachments made by the early Kings upon the rights of the inhabitants of this and other Forest districts, were for hundreds of

years the subjects of dispute, and their history forms an important part of the history of England.

The rights of lopping wood and of pasturing cattle on the wastes of the Forest of Essex also deserve attention. The presence of the marked cattle on the Forest lawns, and of trees everywhere made into pollards by the wood-cutters, have for the most part been treated as the common incidents of a wide expanse of pasture and manorial waste, explained perhaps, as regards the wood cutting, by a supposed grant of right from Queen Elizabeth. Both in fact were the remains of an ancient agricultural system, extinguished in almost all parts of the country by improved methods of cultivation, and by the exhaustion of the woods, or the arbitrary acts of their owners, but preserved in this district by the restrictions of the Forest laws. I have always regretted that the last complete remnant of these ancient rights of wood cutting which existed in the parish of Loughton, was not allowed to remain under regulations. It was of great value to the poor inhabitants, and as a relic of antiquity was not less worthy of preservation than Queen Elizabeth's Lodge or Ambresbury Banks.

In the last two chapters of the Book will be found an account of the great work of the Corporation of London in rescuing much of the illegally inclosed land,

and buying and dedicating to public use the whole of the Forest wastes, and of the events which led to it.

It was to this action of the Corporation that my Book owes its origin; for in order to enable me to advise them as to the nature of the rights of pasture, by establishing and enforcing which it was determined to stay the inclosures, it became necessary to study an immense mass of ancient and modern Forest documents, collected under the superintendence of Mr. Robert Hunter, who acted in the proceedings as the agent of the late Sir Thomas Nelson, then City Solicitor; and to whose energy and acuteness in conducting the litigation its success was largely due.

These documents, under permission given by Sir T. Nelson, I have used as the foundation of my work, which, however, has required much additional research, and has occupied my leisure during more than four years.

The "Cambridge MS." which I have often cited is a volume in the Cambridge University Library in handwritings of the first half of the 17th century; the contents were probably extracted from original records in order to form instructions for some of the Ministers of the Forest.

The irregular spelling of the names of many persons and places may be noticed. Finding it impossible to fix it with accuracy, I have adopted the spelling used in each document or part of a document, just as I found it.

I am indebted to many friends for their assistance. The trustees of the late Lord Mornington have kindly lent me a great number of original documents relating to the office of Lord Warden of the Forest; and the re-production of one of these by the Autotype Company forms the frontispiece of the work. Mr. Crawford, the present City Solicitor, has also supplied me with many documents; and I have to thank the Reverend J. M. St. Clere Raymond, of Belchamp Hall, for the loan of Chapman and André's large map of Essex, upon which are delineated many of the Forest boundaries laid down in 1641. Mr. Walter de Gray Birch, Mr. E. Scott, and Mr. H. Jenner, of the British Museum, have also given me great assistance in the investigation of various questions which have presented themselves in the course of my labours, and in directing me to many sources of information.

GUILDFORD,

November, 1887.

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ERRATA.

- Page 8, line 3—*For* "stob or stock," *read* "stob and stock."
 63, lines 9 and 11—*For* "Ealderman," *read* "Ealdorman."
 192, line 15—*For* "vermn," *read* "vermyn."
 „ 18—*For* "Later," *read* "Earlier."
 262, line 18—*For* "cover," *read* "covert."
 339, line 2—*For* "Her," *read* "His."
 353, at end of line 8, *add* "the."

THE
FOREST OF ESSEX.

CHAPTER I.



*The General History of the Forest to the
end of the 17th Century.*

"In the Forests also are the Kings' places of retirement and their
"chief delights; for to them they come for hunting, when they lay aside
"their cares, that they may refresh themselves with a season of rest,"¹

THE Forest of Essex, known from the beginning
of the 14th century as the Forest of Waltham,
and in modern times as Epping Forest, was one of
those large districts called Royal Forests, which were
once common in England; and were so ancient, says 4th Inst. 319.
Sir Edward Coke, as no record or history doth make
any mention of their erections or beginnings. Being Spelm. Gloss.
for the most part uninhabited and abounding in woods,
they were set apart for the support of the King's wild
animals; and, though unfenced, were protected by fixed

¹ Dialogues of the Exchequer, Book I. Chap. XI.

boundaries, and by established laws, with magistrates, judges, officers, and ministers.

The soil of these Forests was sometimes in the Crown, and sometimes wholly or partly in private owners; but in either case, the right of forest, commonly known as the right of vert and venison, belonged to the Crown. From a very remote period, the right of hunting in the Royal Forests was the exclusive privilege of the Sovereigns, and of those whom they allowed to share with them the pleasures of the chase.

Sir Robt.
Heath in
A.-G. v.
Fuller, Ex-
chequer Bills
and Answers,
Essex, Car. I,
No. 31 (1628).

Waltham Forest, which was one of their favourite places of resort, was described in the 17th century as having “a very fertile and fruitfull soyle, and being full of most pleasant and delightful playnes and lawnes, most useful and commodious for hunting and chasing of the game of redd and falowe deare,” and as having been “alwaies especiallie and above all their other fforests, prized and esteemed by the King’s Maiestie and his said noble progenito^{rs} the Kings and Quenes of this Realme of England, as well for his and their own pleasure disport and recreation from those pressing cares for the publique weale and safetie which are inseparablie incident to their kinglie office, as for the interteynment of forreyne Princes and Embassado^{rs}, thereby to show unto them the honor and magnificence of the Kings and Queenes of this Realme.”

During the Commonwealth, and in later times as it came to be understood that the Crown lands belonged to the Sovereign only by virtue of his office, those parts of

the Forests of which the Crown had both the soil and the forest right were used as nurseries for timber for the navy, as well as for their original purpose; and when hunting in them by the Kings fell into disuse, and the timber was no longer wanted, these, and the rights of vert and venison in the Forests, the soil of which was not in the Crown, fell into the hands of a public body whose chief object was to administer them merely for the purpose of producing revenue at as little cost as possible, and with a cynical disregard to the rights of the other persons interested.

Second
Report of
Select Com-
mittee on
Open Spaces;
Evidence of
Mr. Howard,
pp. 96—109.

Except in the case of the New Forest, if in truth it be an exception, history is silent as to the dates at which the Forests became subject to the Forest laws. The other Forests are only rarely and incidentally noticed in the Domesday Survey, which, except in mentioning a person in Writtel who was made forester of the King's wood after the Conquest, contains nothing about the Forest of Essex.¹ One document is extant, which, if it

Ellis on
Domesday,
i. 103.

Domesday,
2. 5b.

¹ Unless a grant, a copy of which is in the Chartulary of Glastonbury Abbey, in the Bodleian Library (Wood, 1 fo. 234), and which is printed in Cod. Dipl. No. 398, and Vol. VI. p. 232; Cart. Sax. No. 800, may be excepted.

It purports to be a grant by King Edmund, A.D. 944, of lands at Neteligtone (Nettleton in Wiltshire), the boundaries of which refer to Stratford and Woodford. There are places of these names in Wiltshire, but at the opposite end of the county, in which I cannot identify the other places named in the boundaries. But Stratford and Woodford, together with Aldersbrook, the Mere dyke, Hengrave (Ingrave), and perhaps, Abbanberge (Abridge? Abury?), which are all mentioned in the boundaries, are in Essex at no great distance from one another, and in or close by the ancient Forest.

The only probable explanation of the difficulty which occurs to me,

were genuine, would afford conclusive evidence that the Forest was a Royal Forest before the Conquest.

This professes to be a grant by Edward the Confessor

is, that in the original document, of which that in the Chartulary is a copy, the boundaries of the land granted may by mistake have been written upon the wrong grant. If the boundaries belong to Essex, the interest of the document lies in the last boundary mark. This in the Chartulary is written the "*fer ist sone*," which Kemble reads "the forest stone." If this be correct, as I think it must be, we have not only a Forest boundary more than 100 years before the Conquest, but a very unusual form of the word "Forest."

Cod. Dipl.
Nos. 119, 288.
Cart. Sax.
Nos. 207, 321.

—
Baluzius,
Vol. I.
Capits. of
Charlemagne,
A.D. 800.

—
Lex Ripua-
riorum lxxvi.
Dagobert,
A.D. 630.

During the Anglo-Saxon period the Royal Forests were called the King's woods (*sylvæ regis* or *regales*), and a forest was called *deorwald*, the word "*deor*" being applied to wild beasts in general.

The words "*foresta*" and "*forestarius*" were used on the Continent at the beginning of the 9th century; but in the 7th the phrase is "the King's woods"; and I have been unable to find the word "Forest" in any Anglo-Saxon document, except the Latin version of the Forest laws, attributed to Canute, the date of which, however, is probably not long before the Conquest. "Forest" is commonly believed to be from "*foris*," something beyond certain boundaries, as opposed to "*intus*"; and "*foris*" is often so used in the Anglo-Saxon Charters; but according to a derivation proposed by the author of the Dialogues of the Exchequer, "*forest*" is from "*feresta*," the *e* being changed into *o*, and the word being made out of "*ferarum statio*," a habitation for wild beasts.

This is the only document in which I have found the word written according to this conceit of the Bishop of London, who is supposed to have written the Dialogues in the time of Henry II.

4th Inst. 319.
Spelm. Gloss.
"Foresta."

Rot. Chart.
5 John (1203).
R. C. 104b.
Charter of
Abbot of
Stratford.
Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2.

Coke and Spelman fall into the curious error of supposing that the Anglo-Saxons called a forest "*buckholt*," *i.e.*, *sylvæ ferina*. It is not certain that the fallow deer was a wild forest animal during the Anglo-Saxon period; but if it were, the name of the stag or hart would certainly have been preferred to that of the buck. Buckholt is no doubt a corruption of *bocholt*, *i.e.*, a wood held by book or charter. A corresponding compound is *bochurst*, of which there were several examples in the Forest of Essex. One was a wood granted by John, under the name of *La Bocherste*, to the Monastery of Stratford, and was still "*Bookhurst*" in the time of Edward II.

of the office of Keeper of part of the Forest to Randolph Peperking and his family; and it shows, as we have been gravely told, the nature of the functions originally entrusted to the chief officers of the Forest.

Buxton's
Epping
Forest, p. 13,
ed. 1.

This charter was long since declared by Morant to be a forgery, upon the ground that its language was that of the 14th century.¹ He took it to be the invention of some idle poetaster in the reign of Edward I. or Edward II.; but takes no note of the possibility that it might have been a paraphrase or free translation in the dialect of that period, of a genuine Anglo-Saxon grant. There may be in it enough of the language of forest grants, to give colour to the suggestion that it was the work of an idler who had some knowledge of such matters; perhaps of

History of
Essex, vol. 1.
327, note.

“A clerk foredoomed his father's soul to cross,
Who penned a stanza when he should engross”;

but this, I think, is not the true explanation of its origin.

MSS. Harl.
2115, fo. 143b.

It is known by a copy in the British Museum, written about the time of Henry VIII., and which runs as follows:—

“A coppie made of a graunt by King Edward called the Confessor, before the Conquest, and remayn^s of record in the Exchequer.”²

¹ Kemble includes it in the *Codex Diplomaticus* (No. 899) without note or comment; but it is not the only doubtful document contained in that work; nor is its claim to authenticity improved by the fact that it was cited on behalf of the Crown in 1635 on the question as to the Forest boundaries.

² Camden (*Brit.* 2. 43, Gough) refers to the *Exch. Treasury of Rect. Hil. T. 17 Edw. II.*, which must have been an *inspeximus* Charter; but a search for it has been unsuccessful.

“Iche Edoard Kinge have yoven of my forreste y^e
 keepinge
 Of the hundreth of Chelmer and Dawncing,
 To Randolphe Peperking and his kinling ;
 With hart and hind, do and bokke,
 Hare and Fox, Catt and Brooke,
 Wylde foule with his flock,
 Partriche feasant hen and feasant cock ;
 With greene and wyld, stob and stock.
 To kepen and to yeomen by all ther might,
 Bothe by daie and eke by night ;
 And hounds for to hould
 Good swyfte and Boulde
 Four greyhounds and vj Raches,
 For hare and fox and wild Cattes ;
 And therefore I make him my booke.
 Wittnes the Bysshop Wolfston
 And book y learned many a one
 And Swayne of Essex our Brother
 And liken to him many other
 And o^r Stuard Howelyn
 That besought mee for him.”

Ranulfus Piperellus, otherwise Ralph Peverell or Peperking, was a Norman, who is recorded in the Domesday Book to have held large estates in several of the Essex hundreds, including Chelmsford and Dengie, though it does not appear that he held them during the reign of the Confessor.

Assuming that the document may be a paraphrase made about the 13th century, we may pass over the

circumstance that rhyme was very rarely used in Anglo-Saxon poetry. But there are many other difficulties. The hundred of Dengie, here corrupted into Dawncing, was called Witbrictesherna,¹ at and presumably before the date of the Domesday Survey.

The grant to Peperking and his kinling is equivalent to a grant of the office in fee; but though there were several foresters in fee in Essex, there is no trace of such an office in Chelmsford or Dengie.

The Forest laws attributed to Canute, and which are probably at least as old as the time of the Confessor, must be assumed, in the absence of knowledge of any other Forest laws before the Conquest, to have been in force during the reign of the Confessor; and the supposed grant does not agree either with it or with the Norman Forest laws.

It specifies the red and fallow deer, but omits the wolf, the wild boar, and the roe, which are all mentioned in Canute's laws; the wolf probably, and the boar certainly, being wild in the forests during Edward's reign. The fox was not under the care of the Forest officers appointed by Canute's laws; nor do they speak of the cat or the brock. The partridge, the pheasant, and the mallard were fowls of warren after the Conquest, but so far as I can find, they were not under the care of the Forest officers before it; or protected by any Forest law

Co. Litt. 233a.

¹ Query, Witbrict's horn or projection, in allusion to its position. Dengie is commonly supposed to be Danes eye=Danes Island. It has been suggested that "Den" in Dengie is a valley or low ground (Gough's Camden, 2. 53); but if it was called after a Dane, the transition to Danes Island is very easy.

except the general prohibition against the use of weapons, dogs, and snares, and against hawking.

If "stob or stock" is the right to have gallows and stocks,¹ such a privilege was sometimes annexed to the estate of the lord of a manor,² but not to the office of a Minister of the Forest.

Manwood,
ch. 18.

The right to hunt the hare, the fox, the cat, and sometimes the brock or badger, and to keep for the purpose a fixed number of greyhounds and brackets (of which word "raches" is another form³) was often granted by the Plantagenet kings to Forest landowners in words⁴ so exactly corresponding to those used in the supposed grant by the Confessor, that it is impossible not to

¹ Stob means a post or the trunk of a tree; and Halliwell gives an instance of its application to the post of a gibbet (Dictionary of Archaic Words). In Scotland, to have "stob and staik" in a place, meant to be domiciled there (Jameson's Sc. Dict. Supp.); but this meaning seems entirely inapplicable.

² *E.g.*, William Earl of Salisbury in 1630, and James Earl of Salisbury in 1670, in respect of their manors of Roydon Hall and Temple Roydon, claimed "pillories, tumbrells, and gallows" for punishing malefactors within the manors and the liberties thereof; and at the manor Court of "Rokholt" on the 21st May, 1532, it was presented that the lord of the manor might make a pair of stocks and a pair of gallows between the manor of Wanfield and the manor of Rokholts.

³

"Thre grehoundes he ledde on hond,
And thre raches in on bond."—

Arthur and Merlin, 172 (Halliwell).

Exch. Treas.
of Rect. Pl.
For. 20 Ed. I,
Charter Roll,
Essex.

⁴ Take, for instances, 1 Richard I.—Grant to Ralph de Hoodenk and his heirs through our whole Forest to take hare and fox and wild cat. 37 Henry III.—Grant to Richard de Tany and his heirs, to have if they will, eight harriers and twenty brackets, to course and hunt hare, fox, badger, and wild cat through our whole Forest of Essex, &c. Many claims made at the Courts of Justice Seat profess to be founded upon charters made in similar language.

suspect that they were copied from a grant made in a later reign.

Again, the principal witness to the supposed charter is called "Swayne of Essex, our brother." Now Sweyn, the king's brother, must have been he who was the son of Earl Godwin, and the brother of Queen Eadgyth. But it was a different person whose large estates in the county are described in the Domesday Book under the head "SVENI de Exssessa." He was a favourite of the Conqueror, from whom he received large grants of land in Essex, and was the builder of Rayleigh Castle. His father's name was Robert.

Domesday,
Essex, xxiii.
41b.

Lastly, there is no evidence that the two hundreds which formed the district included in this supposed charter were ever within the bounds of the ancient Forest. It was, on the contrary, found by those who made the perambulation of the Forest in 1301, that the hundred of Dengie was beyond the Forest, because it was afforested after the coronation of Henry II., and by the Kings Richard and John; and that, except the vill of Writtel, which was Crown demesne, the hundred of Chelmsford was also beyond the Forest.

Ch. Misc.
Rolls, No. 113.
27—29 Ed. I,
No. 12.

This brings us to what I take to be the true explanation of the matter. In the 13th century it appears to have been the practice to link together two hundreds or half hundreds for the purpose of Forest administration. Chelmsford and Danesei were so linked in 1250, when they were claimed as part of the Forest. They had in common one forester, with three sub-foresters, and four regarders, and each had two verderers, and woodwards of its own woods.

Cotton, Roll
xiii. 5.

Ex. Treas.
of Rect. For.
Rolls. Essex,
No. 2.

The records of the Court of Justice Seat, held in 1292, also show that these hundreds then formed the bailiwick or district of one of the Riding Foresters, who was removable at the pleasure of the Steward of the Forest. And as the dialect of the charter agrees with the language then in use, it seems likely that this rhyming charter was forged about the end of the 13th century, in order that it might be produced at one of the inquiries which were held at that time concerning the bounds of the Forest, as evidence that these hundreds were legally afforested; possibly also to support a claim by one of the descendants of Peveril¹ to the office of forester in fee, against that of the Steward or Warden of the Forest to have the disposal of it.

The absence of any documentary proof that the Forest of Essex had been placed under the Forest law before the Conquest does not, however, raise any inference that it was not afforested till after that time. No traces have been found of any afforestations, except such as were enlargements of a Forest already in existence, and which it can hardly be doubted was so, long before the Conquest.

We may learn something as to the manner in which this, and probably other forests in England became what they were, by considering the original state of the district; the rights exercised over the land by the

¹ Peveril had a grandson, known as William Peveril of Essex. Dugd. Baronage, i. 437.

early Kings and their nobles;¹ and the position of the inhabitants.

I may remind my readers that, during a long period before the Conquest, the Anglo-Saxon Kings and their Councils exercised the right of granting lands absolutely to different persons, including the Kings themselves, in severalty, subject to the usual burdens of military service, and the making and repairing of bridges and castles.

The grants were made by book or charter, and the land was thence called "boc land;" that from which it was taken being "folk land," that is, the people's land. But it was only treated as the people's land in the sense that it was used for the purposes of the state, and this use was at the discretion of the King and his witan. Such parts of it as were not granted by charter, or temporarily disposed of in the manner presently mentioned, were in practice used at the King's pleasure; and there seems to be no doubt, that from such of it as was suitable for the purpose, the Royal Forests were originally formed. When and by what process those which existed before the Conquest were made subject to the Forest laws is unknown; but it is not necessary to assume that any formal act of afforestation took place.

The question as to the earliest introduction of a body of written Forest law in England depends upon

¹ See upon this subject Allen on the Royal Prerogative; Kemble's Saxons in England, and Introduction to Codex Diplomaticus; De Laveleye, De la Propriété et de ses formes primitives; Seebohm on the English Village Community.

the authenticity of the Code commonly attributed to Canute, and called *Constitutiones de Foresta*. This will be discussed in the next chapter; and, if I am right in my conclusion that the Code is a Latin translation or reconstruction of a genuine body of Anglo-Saxon or Anglo-Danish Forest laws, its contents show that at a still earlier date than the reign of Canute, there were Forest laws or customs in England, which may have formed the foundation of the Code itself.

Now in the Forest of Essex, originally a wild and uncultivated country, for the most part thickly wooded, but interspersed with lawns, plains, and marshes, there were formed in remote times a number of settlements conveniently placed for the use of the woods and pastures, and for the cultivation of a sufficient quantity of land; which according to a very ancient practice was held in open and common fields and meadows, some of which yet remain; and with the existence of which the wood and pasture rights exercised in the Forest were closely connected. The custom of wood-cutting in Loughton only ceased with the existence of the original constitution of the Forest in 1878; and it will be shown that similar customs once prevailed over the greater part, and probably over the whole of the Forest.

Almost all the Forest villis which represent these ancient settlements are shown by the Domesday Book to have been in existence before the Conquest; but except in the case of Waltham, which is said to have been founded by Tovi or Tofig, the standard-bearer of Canute, we have no information as to the time of their settlement,

It was probably long after their foundation that the boundary line of the ancient Forest was fixed; for that part of it which has always been treated as forest only included parts of several parishes. Stratford, West Ham, East Ham, Great and Little Ilford, Barking, Dagenham, Navestock, and Theydonboys, were all divided by it; and it seems to follow, either that these places, and the vills which were entirely within the Forest, must have been allowed to grow up in a district which was already afforested, or that the Kings must have assumed a right to afforest at their pleasure the lands of their subjects. The right to do so was, as is well known, claimed by them after the Conquest, and enforced by the afforestation of large tracts of land in Essex and other counties.

See map of the Forest according to peramb. of 1641, *infra*, 15 Rep. of L. R. Com. 1793, App. No. 1.

These, after a long struggle, their successors were compelled to give up, but the claim was revived in the 17th century for the purpose of extorting money; though it was stoutly denied by Coke, who declared that “the common law hath so admeasured the Kings’ prerogatives that they should not take away nor prejudice the inheritance of any.” 4th Inst. 301.

The difficulty may perhaps be explained in this way. There were large tracts of land in the possession of subjects, but which, being held neither for estates of inheritance, nor by charter, might have been made subject to the Forest laws without violence to the rights of the occupiers.¹ These were the læn (*Anglice*, loan) lands,

¹ The population of course was thin. In the whole of the nineteen parishes which were wholly or partly in the Forest, there were at the date of the Domesday 2 priests, 513 villeins, 451 bordarii, 58 serfs, and

upon which, either by way of reward for military services, or by favour of the Kings, people were allowed to settle without receiving grants of any permanent estate in them. Such lands were subject to various burdens, amongst which obligations to provide lodging and sustenance for the Kings, their huntsmen, horses, dogs, and hawks, and those who had the care of them, and to assist the King in his hunting, were common.¹ It is probable that a right to hunt over these lands themselves would co-exist with these obligations, either by express reservation when the l  n was granted; or because the original settlers may have squatted upon their lands either before the existence or during the suspense of any settled government, and may afterwards have been allowed to retain them in the nature of l  n land, and subject to the Forest and other rights of the Kings.

In a district used under these circumstances as forest, subject to such Forest laws and customs as then existed, the fixing of the boundaries may not only have taken place long after the foundation of the Forest villis, but may have been delayed until the settlement of the

18 freemen. A large proportion of these were in Waltham, Barking, West Ham, and Walthamstow.

¹ As one of many instances:—"Soluta et liberata sit . . . ab opere regali et pastu regis et principis, vel juniorum eorum; ab hospitiorum refectione, vel venatorum; etiam equorum regis, falconum, et ancipitruum, et puerorum qui ducunt canes." (Cod. Dipl. No. 258; Cart. Sax. 450. See Introduction to Cod. Dipl. p. liv.; and for other instances see Cod. Dipl. Nos. 214, 216 (*id.* Cart. Sax. 370), 223 (*id.* Cart. Sax. 395), 237, 261, 278 (*id.* Cart. Sax. 488), 306, and Cart. Sax. 413, 443, 454, 612.

surrounding lands had made it necessary or desirable to define the exact limits of the Royal Forest.

It was the custom at different times not only to call the whole Forest by the names of the principal places in it, such as Waltham or Epping, but to call the part of it which surrounded a particular vill or place, the Forest of that place. Thus, besides the outlying forests, so called, of Kingswood, Writtle, and Hatfield, which were ancient Crown demesnes, we find constant mention in the records of the Forests of Theydon, of Loughton, of Chingford, of Walthamstow, and other places; and on the eastern side of the Forest there were the Forests of Havering and Hainault. All these were originally integral parts of the Forest of Waltham, and were subject to the same regulations (except some local customs), and administered by the same officers.

The name of "Hainault" is a comparatively modern corruption of a word variously written in the 13th and 14th centuries as "Hineholt" or "Hyneholt;" in the 16th as "Inholt" or "Enholt;" and later as "Henaault" or "Heynault." "Hainault" occurs in the records, I believe, for the first time in 1719-20.

The same name of "Hyneholt" was borne by part of the King's wood at Colchester in the 14th century; the Anglo-Saxon "Holt," a wood, evidently forms the last syllable; of the first I can offer no satisfactory explanation.

The manor of Havering was ancient Crown demesne, and in the time of Edward I. was part of the Hundred of

Becontre. It is hardly worth while to notice the tradition¹ that the name arose from the sending of a ring by a pilgrim to Edward the Confessor. The syllable "ing" is a common suffix of the names of places in Essex; it may refer to a meadow or pasture, but was probably used as an Anglo-Saxon patronymic.

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2,
Essex, No. 3.

Not long after the perambulation of Edward I., made in 1301 and which made Havering part of the Forest, his son and successor assigned the "Forest of Havering," with many other possessions, to his consort, Queen Isabella, for her dower, with power to nominate justices itinerant for Pleas of the Forest, and with the fines and amerciaments for trespasses committed in the Forest; and accordingly, in 1323-4, on the nomination of the Queen, he appointed Henry Beaufytz to be an associate with Aymer de Valance, Earl of Pembroke, and the three other justices itinerant of the Forest, and commanded them to admit him to act with them.

Pl. For.
17 Ed. 2.

A.-G. v.
Cooke.
A.-G. v.
Wright.
Exch. Bills
and Answers,
Jas. I, Essex,
No. 270. State
Pap. Dom.
Jas. I,
Vol. 202,
No. 22.

Havering thenceforth became a liberty separate from Becontre hundred. The Crown still claimed it in 1617 as part of the Forest. But the defendants, in the suit in which it was so claimed, said that it was distinguished by known bounds from the Forest; that the foresters had not intermeddled with it; the tenants or inhabitants had not been required to appear at the Forest Courts, and it had been treated as purlieu. The accuracy of these statements is shown by the facts, that the bounds which separated it from the Forest were laid down by the perambulation of 1641; and that in 1630 it had a Ranger, an officer whose duties lay in the purlieus.

¹ The story is repeated by Lord Lytton in *Harold*, Book X. Chap. II.

And in the 18th century, when its people were presented for agisting their cattle in the Forest, the Reeve said that for sixty years they had been accustomed to pay for this privilege.

Attachment
Rolls, 8 June,
1770.

As to Colchester, the actual Forest district subject to the Forest laws, included not only that anciently known as King's Wood and King's Wood Heath, and in modern times as Mile End Heath, but, as appears by the perambulation of 1301, the Castle and the whole town within the walls. The estate was granted to the burgesses of Colchester by Henry I. or Stephen for a fee farm rent of 40s. About 1168 it came to the hands of Henry II., and by grant from him and Richard I. no forester was allowed to molest any man within the liberty; and all the burgesses might hunt the fox, the hare, and the polecat within the limits. The estate continued in the Crown till the reign of Henry VIII., who, for the sum of 100*l.*, granted it to the bailiffs and commonalty as part of the liberty of the town of Colchester.

Morant's
Essex, vol. 1
(Colchester),
p. 83. Hist.
of Colchester,
1789, pp. 97,
170.

Hatfield Regis remained in the Crown till the reign of Henry III., who, in 1217, granted it to William de Cattingham, and in 1241, with Writtle, to Isabel wife of Robert de Brus. In this family they remained till 1306, when they came by forfeiture to Edward I., and were afterwards granted by Edward II. to Humphrey de Bohun.

Morant,
vol. 2. 502.

Charter
25 H. 3.
Ex. Treas. of
Rect. Plac.
For. 20 Ed. 1.

The history of Writtle is almost the same as that of Hatfield to the time of the grant to Humphrey de Bohun.

Morant,
vol. 2. 61, 63.
Ex. Tr. of

Rect. Pl. For. 20 Ed. 1.
Cott. Roll,
xiii. 5. At a Forest Court held in 34 Henry III. (1250) a memorandum was entered of liberties claimed by Isabella de Brus under the King's grant; and there were then separate foresters, verderers, and regards, for the half hundred of Chelmsford in the parts of Writtel, besides woodwards of several woods.

Morant,
vol. 1. 61—63.

In the reigns of Henry III., Edward I., and Edward II., land was held by the serjeanty of keeping the Forest of Writtel, and whoever held it was on account of it to discharge the Bayliship.

The whole county of Essex, except the district in the south-western part of it, which from all time, has been known as Royal Forest, and except perhaps some of the north-western part beyond the Great Roman Road called the Stanstrete, was brought under the Forest laws, probably, by William the Conqueror and his successors; and to them must be attributed the introduction of the system of Forest government which, with some modifications, lasted till the middle of the 19th century.

The description of this, of the Court of Attachments, and of the Swainmote, which presented, examined, and assessed the fines for Forest offences; of the Court of Justice Seat which punished them, and of the Ministers who were the eyes and the ears of the Courts, will be found in later chapters; and we now pass on to the times when the pecuniary necessities of the Kings, and the complaints of the hardships caused by their illegal afforestations, led by degrees, and after long struggles, to their abandonment.

Some disafforestations were made both by Henry II. and his predecessors; but the earliest record which I have found of any in Essex, is that by which John disafforested the district described as “beyond the causeway towards the north which leads from Stratford towards Colchester, as far as the wood of Weldhora, where, at the head of the ditch called Haydicke, it is joined to the aforesaid causeway; and from thence beyond the causeway as the wood extends to the New Bridge; and from thence as the highway extends, as far as Heiland.”

Assise of Woodstock, § xvi. And see Writs of April, 1228, *infra*, Rot. Chart. 5 John, 1204, memb. 9 (R. C. p. 123).

The “causeway” is, of course, the Stanstrete, but a later perambulation, made in 1301, shows that only a part of the country on the north of this road was forest, and included in this disafforestation.

I cannot identify the other places named; but the bridge is probably one of the Colchester bridges, and Heiland may be the wood marked as Highwood in old maps, and situate at the south part of Mile End Heath.

See Chapman and Andre's map.

This disafforestation was confirmed by Edward IV., Henry VIII., Edward VI., Mary, and Elizabeth.

Confirmation Roll. Chy. 7 Eliz. No. 7.

In 1215, John, by Magna Charta (§ 47), in accordance with one of the articles in the agreement with his barons, disafforested all the forests which were afforested in his time, and the banks made to protect them. And shortly after, the famous instrument called the Charter of the Forest was granted by Henry III. in consideration of 1-15th of all the moveables of the whole kingdom of England. It provided that all forests which Henry, the King's grandfather, afforested should be viewed by good and lawful men; and if he had made forest of any other wood more than of his own demesne, whereby the owner

Matth. Paris Chron. Maj.

of the wood had hurt, forthwith it should be disafforested; and if he had made forest of his own wood, then it should remain forest.

Pat. Roll,
9 H. 3, Pt. 2,
m. 5.

See M. Paris
Ch. Maj. vol. 3,
92, 94 (M. R.
S.).

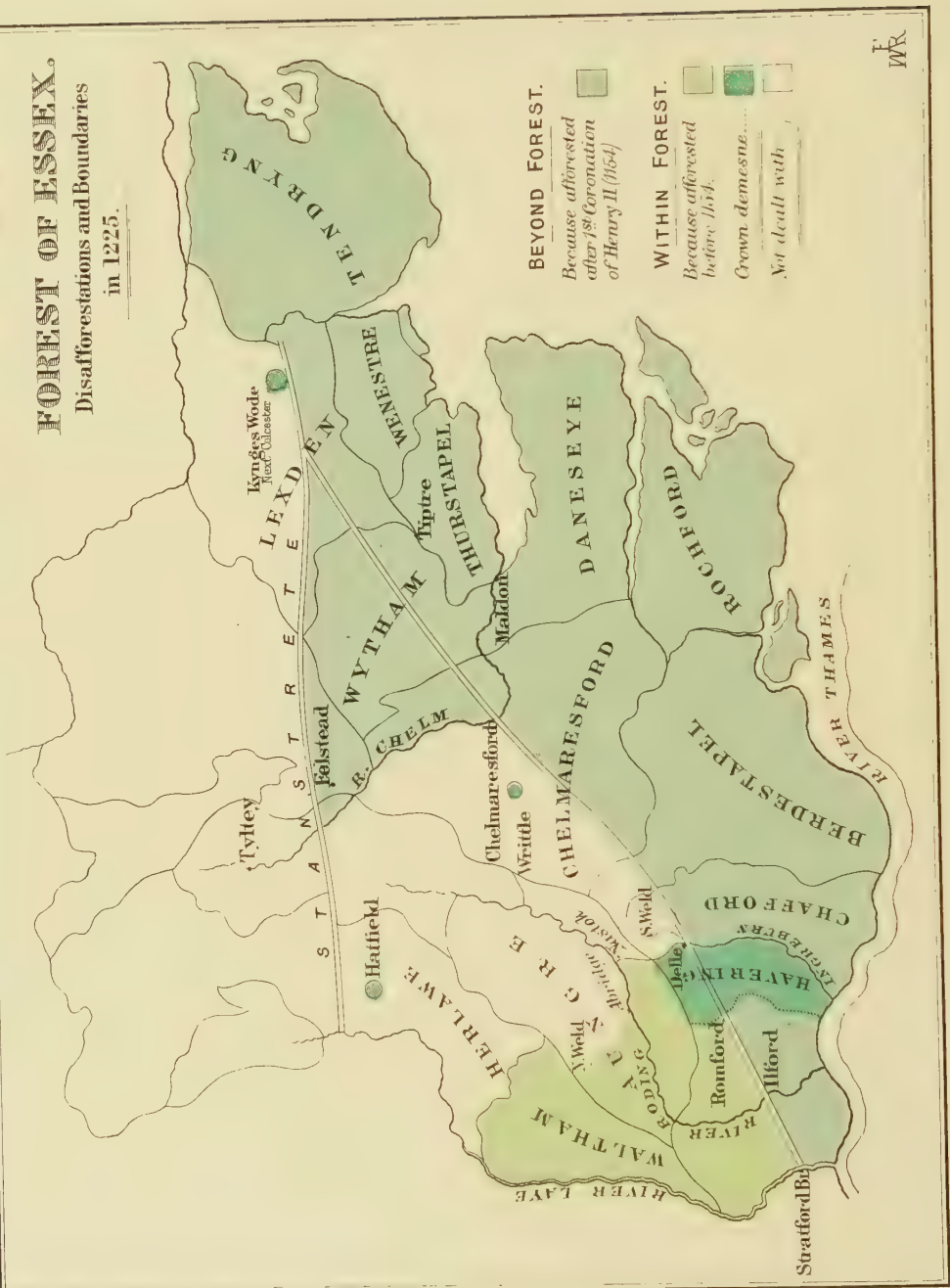
In accordance with this charter, perambulations were ordered to be made before March, 1224-5, as is shown by a document issued by the king in that month; in which, referring to a perambulation already made under the Charter of the Forest, he directs that the knights who made it should not disturb or in anywise destroy whatever the knights of this last perambulation should affirm. The language is somewhat obscure, but the reference is probably to an intended further perambulation, which was actually ordered by a writ dated 9th May, 1225.

This was directed to Hugo de Nevill, Briennus de Insula, and Master H. de Carn; and constituted them the King's Justices in Essex, Surrey, and Sussex; "that by your view having called to your aid the foresters of the fee, and the verderers of those counties, a correct perambulation may be made by 12 lawful knights of those counties, who, being for this purpose elected and sworn, the better may know and be willing to declare the truth before you, between the parts of those counties which are to be disforested, and those parts which shall remain forest, according to the tenor of our charter of Forest liberties granted to our good men of England."

They were therefore directed to cause the metes and bounds between each part of the counties, to be placed and enrolled, with the names of the knights who made the perambulation, under the seals of the Commissioners, of the knights, and the sheriffs; and that until it was so

FOREST OF ESSEX.

Disafforestations and Boundaries
in 1225.



F.
W.R.

completed, no woods should be felled, nor any venison taken on account of it.

The records of two of the perambulations of the Forest of Essex, which are extant, are probably those made upon these occasions. One of them is entered in the Register of the Monastery of Waltham Holy Cross preserved in the British Museum. It does not deal with the whole of the afforested lands, nor does it contain the names of the knights. It is therefore, I consider, the earlier of the Essex perambulations made by Henry III. under the Charter of the Forest.

Cotton MSS.
Tib. cix.

The knights who made it say, first, that a certain wood called “Kyngeswood” next Colcester was appurtenant to the town of Colcester at the time of the first coronation of King Henry, the grandfather of King John; and after that it was taken into the hands of the King, and the burgesses of Colcester were computed at 40s. on behalf of the Exchequer in respect of their farm in the same wood; “with regard to which the lord the King shall do as he wishes, as of his own demesne lands.”

They then say that “whatever is towards the East from the river formerly flowing from Tyltey (*i.e.* the river Chelm) as far as Chelmaresford. And from Chelmaresford to Maldon, and from thence as far as the Eastern sea where the same river flows into the sea, was afforested after the first coronation of King Henry (II.) the grandfather of the lord the King, and for that reason they place it without the bounds of the Forest. Likewise they say that from the highway which stretches from Chelmaresford as far as the bridge of

Stratford, which is between Essex and Middlesex, whatever is from that way towards the South¹ (all the appurtenances of the lord the King's manor of Havering being excepted²) as far as the Thames is without the bounds of the Forest for the aforesaid reason."

The knights then began the perambulation of the ancient part of the Forest at a place called Delle on the London and Chelmsford highway near Romford, where by a bridge, called Dellebridge in the perambulation of 1301, it crossed the Ingreburn brook. The name of the place was, perhaps, preserved in that of "The Dial House," marked in Chapman and Andre's map. The boundary went up the Ingreburn between Havering and (South) Welde to a factory on the border of the wood of Nastock, and thence across to the river Roding; down that river to Abridge, thence by the house of William de Bosco to the Tyledehawes (tiled house³) belonging to the Abbot of Waltham, and from that house to the Cross next the inclosure of (North) Welde, called Holonecouche; and so between the hundreds of Aunger and Waltham, and of Heilawe and Waltham to the stream called Laye.

They said also that whatever was contained between the aforesaid places and the highway coming from Strat-

¹ I am not sure whether the hundreds of Daneseye and Rochford were included in this description, nothing being said, as in the case of the other district, about the Eastern sea. According to the perambulation of 1301, Daneseye was afforested after 1154; but Rochford was found to have been beyond the Forest from time immemorial.

² These included lands in Hornchurch, Rumford, and other parishes in the liberty, lying to the south of the highway.

Claim No. 75. ³ There was also an "Old Tyled House" in Barking in 1670.

ford as far as the place called Delle, was preserved from taking game on the day of the first coronation of King Henry II.; and for that reason the game in those places was the right of the lord the King, saving to all free tenants their woods and tenements, quit from rent and regard, and from all manner of hindrance of the foresters.

Then after stating that certain free alms belonging to the monastery of Waltham, were within the bounds, and leaving to the judgment of the King and his Council other property belonging to the churches of St. Paul, St. Ethelburga, and other religious houses, the knights, pleading their imbecility and the difficulty of the task, conclude by leaving all the lands beyond the limits laid down, except the King's demesnes, to be disposed of according to his will; adding, that there were certain places in Essex beyond the limits of the Forest which were not afforested after the first coronation of Henry II. These are the districts left uncoloured in the map. They are also left out of the Forest by the perambulation of 1301, which is equally silent as to their history. They were doubtless afforested by one of the early Norman Kings, and some parts of them which lay on the north of the causeway were, as we have seen, disafforested by John.

It was probably because of the obvious imperfections in this perambulation that the King issued the writ already mentioned for a second perambulation, the record of which is entered in the MS. copy of Bracton in the Bodleian Library. It was made before Hugh de Nevyle, Justice of the Forest, one of the Commissioners named in the writ, and the Lord Richard, son of William, for

Rawl. MSS.
C. 158, fo. 120.

this purpose assigned with the aforesaid Hugh. It contains the names of the twelve knights who made the perambulation, viz. Robert de Senaunce, Gilbert Mandut, Ralph son of William, William de Hispania, Ralph de Berners, Thomas de Plumbereway, Philip de Rokele, William Mandut, Thomas de la Downe, Walter de Badne, Richard de Hesketot, and Alexander de Ridelings.

These knights laid down the bounds of the ancient afforestations in almost the same words which were used by their predecessors. They gave the names of the Crown demesnes, to which the latter had only referred generally, viz., Havering, Writtle, Hatfield, and Kyngeswode next Colcestre; and "the knights also say that whatsoever is afforested beyond the demesnes of the lord the King and the places and divisions above noted in Essex, was afforested after the coronation of the aforesaid King Henry, grandfather of the lord the King Henry III. And therefore they say that all that may be without the Forest."

M. Paris
Chron. Maj.
(M.R. Series),
vol. 3, p. 125.

Close Roll,
12 H. 3, m. 98.

In 1227, the King, at the instigation, it is said, of Hubert de Burgh, the chief Justiciar, quashed the charter of the Forest, on the pretence that having been under ward he had no power to grant it. On its restoration upon the demand of Richard Earl of Cornwall, Henry found another way of attaining his object. He issued writs dated the 24th April, 1228, to the sheriffs of Essex and other counties,¹ setting forth that the knights who made the perambulations in those counties had acknowledged that they were led into error, because the writs under which they acted directed them to disforest all

¹ Stafford, Worcester, Surrey, and Salop.

woods which Henry II. had afforested, and did not except those which before his time were forest, and which he had afterwards restored to forest. Wherefore they believed that of such disafforesting, there were woods which he had restored to forest, as well as those which he had newly afforested. "They say, therefore, that all the Forest of the said county, which they in their perambulation aforesaid deafforested, was afforested before the time of our aforesaid grandsire; and when it was in the wars of King Stephen destroyed, was again, by our said grandsire, restored to forest as it had been in the time of King Henry his grandsire (Henry I.). And therefore we command that you cause it to be proclaimed throughout your bailiwick, that the Forest shall be kept by the same bounds and metes by which it was kept in the time of our lord King John our father, before the war moved between him and his barons of England. And we forbid any to trespass in vert or venison in the same Forest; and bows and arrows, harriers and brackets are to be removed from within the same."

To the Essex writ is added "except the hundred of Thendrig which King Henry (II.), grandsire of the king, afforested anew."

The further perambulation was made by the same knights who made the perambulation of 1225, and runs as follows:—

"ESSEX. This is the perambulation in the county of Essex in the 12th year of the reign of King Henry III., between the ancient Forest, and the Forest afforested after the first coronation of King Henry, grandfather of

For. Proc.
(Chancery)
De Antiquis
Forestis,
No. 88.

the lord King Henry III., by the knights underwritten, as jurors, by the precept of the lord the King; before the lord Hugh de Neville, Justiciary of the Forests. . . . Richard Fitz William for this purpose appointed with the lord Hugh de Nevill; To wit, Robert de Sonant, Gilbert Mandut, Ralph Fitz William, William de Ispania, [Ralph] de Ber[ners, Thomas] de Plumberge, Philip de Rupela, William Manduit, Thomas de la Dune, Walter de Badewe, Richard de Assecots, Alexander de Briclinges; who say that whatever afforestation existed on the day of the perambulation, was afforested before the day of the first coronation of the lord King Henry (II.), grandfather of the lord the King Henry III. Except the hundred of Tendinges, which was afforested after the first coronation of King Henry II. And the same [knights] say that the hundred is beyond the Forest. And the residue of the county of Essex which was heretofore afforested, shall remain in the Forest as it was aforetime."

Cotton Roll
xiii. 5.

By this audacious act, Henry III. at one stroke cancelled almost all the disafforestations in Essex made by the Great Charter, and by the Charter of the Forests; and in 1250 he had foresters, verderers, regards, and woodwards in the hundreds of Tending and Lexden (Alrefen), of Thurstapel, and the half hundred of Lexden at Tippetri; the half hundreds of Wenestre, Wyham, and Felsted; the hundreds of Chelmsford, and Daneseye, Berdestapel and Chafford, Chelmsford in the parts of Wittel, and Ongar; and the half hundred of Waltham.¹

¹ The MS. being imperfect, it is possible that there may have been ministers of the Forest in some of the other hundreds.

The records of the Justice Seat held at Chelmsford in 1277, also contain pleas of vert concerning the half hundreds of Lexden (in respect of the Crown demesnes of Colchester and Alrefen or Kingswood), and for Wesentre (Wenestre), Thurstable, and other districts beyond the Forest bounds laid down in 1225; and Reeves (who, I think, must have been Forest Reeves) for Langho (Langenhoe), Tolleshunt and Tollesbury in the two latter hundreds; and a charter licensing the Abbot and Monks of the Cistercians of Coggeshall to enclose their woods in Tolleshunt with a small fence; and the entries at the Justice Seat of 1292 show that foresters and their yeomen were then acting in the whole or part of every hundred south of the Stanway, except Wenestre, Thurstable, Tendring, and Rocheford; the district of one of these foresters being Dengie and part of Chelmsford, which are included in the rhyming Charter.

The supervision of one forester, with never more than three assistant yeomen, over districts which sometimes included two hundreds, could not have been very strict. But that there might be no mistake about the extent of the claim set up by the Crown, a presentment of the boundaries was made in the reign of Edward I., and was enrolled at the Justice Seats of 1277 and 1292; and to this the Crown lawyers appealed in aftertimes as conclusive evidence that the whole county was subject to the Forest laws. The presentment was as follows:—"It is presented by 12 knights and other jurors joined with them, being chosen out of the county, that the Forest of the lord the King in the County of Essex is included in metes and bounds from the bridge of

Plac. For.
5 Ed. 1.

Pl. For. 5 Ed. 1.

Exch. Treas.
of Rect. Plac.
For. 20 Ed. 1.

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2.

For. Proc. Ch.
De Antiquis
Forestis,
No. 88.

Stratford unto the bridge of Cattywad in length, and in breadth from the Thames unto the king's highway which is called Stanstrete."

Cattywad bridge crosses the river Stour just above Manningtree, and its mention here as a Forest boundary appears to show that the Crown still claimed the hundred of Tendryng as part of the Forest.

Close Roll,
12 H. 3.

It had been disafforested by Stephen; and we have seen that Henry III. in 1228 admitted that it was no part of the Forest because it had been afforested anew by Henry II.¹ But as the previously disafforested parts of Dunmow, Hinckford, and Lexden hundreds north of the Stanstrete, were not included in the Forest claimed by the Crown, there would, if Tendring hundred was also omitted, have been a belt of some miles of disafforested land separating Catywad from Colchester; and the latter place would have been the extreme point of the Forest in that direction.

Further perambulations were made in 1298, 1299, and 1300; at which time the King, being sorely pressed for money, demanded the tenth penny from his subjects, but the Commons granted to him one-fifteenth only in consideration of new perambulations of the Forests, and of pardon for all offences against the King's deer: and these perambulations were made in accordance with the meaning of the directions for carrying out the Charter of

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2.
Autobio-
graphy, 2. 136,
An. 1635.

¹ It was afterwards expressly made quit of the Forest by Edward II.; and Sir Simonds D'Ewes says it was excepted from the claim made by the Crown in 1635, having been enjoyed quietly by the inhabitants for about the space of 400 years free from Forest laws.



FOREST OF ESSEX.

Disafforestations and Boundaries
in 1301.



BEYOND FOREST.

- From time immemorial
- By purchase of Earl of Oxford in 1204.
- Because afforested by Richard & John after 1154.
- No reason given

WITHIN FOREST.

- Because afforested before coronation of Henry II (1154)
- Crown Demesne

ER

the Forest as stated in the proclamation of Henry III., and with the abandonment by his predecessors of some of their encroachments.

The perambulation of the Forest of Essex, which was accordingly made in 1301, is illustrated by the annexed map, and a translation of it will be found in the Appendix. It throws much light upon the early history of the Forest; the reasons why several large tracts of country were declared to be, or not to be in the Forest, being carefully stated, though not quite in accordance with other sources of information.

It describes the main body of the ancient Forest by its metes and bounds, declares which villis and hundreds are within, and which are beyond the Forest, and refers to the outlying parts in speaking of the hundreds in which they are situate.

Chancery
Misc. Roll,
No. 113, 27 to
29 Ed. 1.

Three special reasons for disafforestation are allowed, and another is stated but not allowed. The first applies to the hundred of Westodeleford, Estodeleford (Uttlesford), the half hundreds of Frosschewell (Freshwell), and Clavinger, and the hundreds of Tendring and Rochford; of all which it was declared that they were wholly beyond the Forest, and that they were so from a time beyond the memory of man. This last phrase was, perhaps, used in its strict legal sense as implying that these districts had been out of the Forest since the 1st year of Richard I., and not that they were never known to have been in the Forest; for Tendring, it is clear, was known to have been so.

Stat. Westmr.
1st, 3 Ed. 1,
c. 39.

The hundreds of Dunmow, Hinckford, and Lexden, traversed by the Stanstrete, which, it will be remembered, was claimed in 1277 and 1292 as the northern boundary of the Forest, are with some exceptions declared to be out of the Forest; but as to the parts lying to the north of the Stanstrete, the special reason is given that it was by purchase of Alberic Earl of Oxford.

Dugd. Baron-
age. Dugd.
Monast. vol. 4,
p. 432, ed.
1823.

Charter of
Rd. 1 to
Abbot of
Tiltey.

The second of the De Veres, who held the title of Earl of Oxford, and who was steward and warden of the Forest, and died in 1215, was the person to whom the perambulation refers; for the first earl died in 1194, and Tiltey Abbey and many of the lands belonging to it, which were in the hundred of Dunmow, on the north of the Stanstrete, were in the Forest in 1199. This was, therefore, clearly the disafforestation already mentioned to have been made by King John in 1204, of the lands beyond the Causeway towards the north.

The interest of the De Veres in the nunneries of Castle Hedingham, and of St. Cross, at Hengham, and other places north of the Stanstrete, sufficiently explains their desire to obtain the release of the district from the Forest laws.

The perambulation also puts beyond the Forest the parts of the hundreds of Dunmow, Lexden, and Hinckford lying to the South of the Stanstrete, except the part of Colchester which was within the Forest, and the wood of Blakholay. No reason is given for this finding; the inference is that they had been notoriously afforested by one of the King's predecessors.

The third reason for which lands are held to be

beyond the Forest touches the hundreds of Chafford, Bordestable (Barstable), Danuseye (Dengie), and the half hundreds of Wytham, Thurstable, and Winestre (Winstree); which are declared to be entirely beyond the Forest, according to the tenor of the Great Charter of the Forest, because they were afforested after the coronation of Henry I., and by the Kings Richard and John.

As to the districts found to be within the Forest, the persons who made this perambulation, also for the most part contented themselves by stating the fact without giving their reasons. The places are the vill of Havering with its appurtenances, which was royal demesne, the vills of Wanstead, Leyton, Welcomestow (Walthamstow), and Woodford, and parts of the vills of Stratford in Westham, Eastham, Hyleford parva (Little Ilford), Berking, and Dakenham in the hundred of Becontree; the whole of Loketon, Chigewell, Lamborn, and Stapleford Abbatis, and parts of the vills of Nostock (Navestock) and Theydon Boys in the hundred of Ongar; all the other vills in that hundred being beyond the Forest. The whole half hundred of Waltham without exception was within the Forest. But Hatfield Regis, with the hamlet of La Walle, and the wood called Monkswood; the vill of Writtle, and the vill of Colchester, with the castle and the tract of wood called Kingswood, on the north of that town, are declared to be in the Forest because they are ancient demesne of the lord the King. As to Felsted (which is called both a vill and a manor) with the wood of Blakholehey and its appurtenances in the hundred of Hinckford, the Abbess of Caen, who held them by gift of

William the Conqueror, claimed to have them as freely as they were held in the time of Edward the Confessor; but it was adjudged that they ought to remain wholly in the Forest.

No reason is given for this decision. It is evident that it was not the same which applied to Hatfield, Writtle, and Colchester; for the ancient demesne lands of the Crown were only such as were set down among the *Terræ Regis* in the Domesday Book, and as belonged to the Crown at the time of the Conquest.¹ But Felsted is entered in the Domesday as the property of the Holy Trinity of Caen, and in the time of the Confessor belonged to Earl Algar, from whom the Conqueror must have taken it. Being forest in his hands as his own demesne,

¹ It is not clear what lands are technically ancient demesne of the Crown. The Real Property Commissioners (3rd Report, p. 12) say, "All agree that it exists in those manors, and in those only, which belonged to the Crown in the reign of Edward the Confessor and William the Conqueror, and in the Domesday are denominated *Terræ Regis*." But so far from all being agreed in this view, Coke (4th Inst. 269) and Fitzherbert (Nat. Brev. 14 D.), who are followed by Blackstone, say that those manors are called ancient demesnes of the Crown which were in the hands of S. Edward the King and Confessor, or of William the Conqueror, and are included among the *Terræ Regis*; and as many estates which were included in the *Terræ Regis* were not in the hands of the Confessor, the difference is great. The value of Fitzherbert's authority is much weakened by the strange remark that the Domesday Book was made in the time of S. Edward (16 D.), and that all the lands which were in his hands when the book was made were ancient demesne. Nor is the present perambulation in all respects accurate; but, so far as it is reliable, it supports the view of Coke and Fitzherbert; for Writtle and Hatfield are both entered among the *Terræ Regis*, and are called in the perambulation ancient demesne of the King; and yet they belonged to Earl Harold, and not to Edward the Confessor.

though not ancient demesne of the Crown, when he granted it to the Holy Trinity at Caen in 1082,¹ several years before the completion of the Domesday Book, it seems to have been considered that it must so remain notwithstanding the grant. The other places found by the perambulation of 29 Edward I. to be in the Forest because they were ancient demesne were, like Felstead, actually in the Crown at the date of the perambulation, and therefore, as the King's demesne, were strictly within the exception in *Charta Forestæ*.

But the language of the perambulation appears to have caused some doubt at the time, for four years later, in answer to a petition to Parliament by persons who were put out of the Forest by the perambulations, that they might be discharged of all those things which were formerly demanded of them by the foresters, the King said, that after he had granted the perambulations, it was his pleasure that it should be as he had granted, and as it ought to be without demanding anything, or at least he intended it so; but that all his demesne lands, *whether they were those which were anciently in the Crown, or which came by way of escheat or in any other manner*, should be free chases and free warrens, and should be held and kept as such for his own use, and all the woods therein in such manner for ever after as he pleased.

¹ The Abbey, however, had only four of the five hides of which the manor consisted. Of the fifth the King gave three virgates to a person who rejoiced in the name of "Roger God save the Ladies" (*Deus salvet dominas*); and the fourth virgate to Gislebert, the son of Salomon.

³³ Ed. 1,
Plac. Parl.
279.

Domesday,
Essex, xv.
fo. 21b, lxii.
fo. 96b.

Therefore from that time all the land found by the perambulation of 1301 to be within the Forest as ancient demesne of the Crown, that is to say, Hatfield Regis, Writtle, and Colchester, became only Royal chases and warrens, and were thenceforth omitted from the Forest perambulations; and in 1641 the hundreds in which they are situate, and all the towns and parishes in them, were declared to be wholly out of the Forest.

Plac. For.
Exch. Tr. of
Rect. Essex,
Bundle 27,
No. 1.

Writtle, however, being still a Royal chase, was included in an inquisition into the state of the Forest of Chelmsford, held at Barking in 39 Edward III. (1365).

For. Proc.
Chy. De
Antiquis
Forestis,
No. 37.

The perambulation of 1301 was alleged by certain knights, who were directed to examine it on behalf of the King, to contain several inaccuracies. They reported that whereas the hundreds of Westhodelsford and Esthodelsford (Uttlesford) and Froschewell (Freshwell), were found to have been wholly outside the Forest beyond the memory of man, it was shown by the Domesday Book that Newport, Rickling, Sandford, and other places in these hundreds, with the woods belonging to them, were ancient demesne of the Crown, and therefore ought to have been left in the Forest; that Phyrigheria, with the wood of Ingrave, and Cittendis in Chafford hundred; Bernflet, in Berdestaple; and Witham with its wood, in the hundred of Witham, being in the same position, the whole of those hundreds ought not to have been excluded; and that the vill of Stanway, and Lessenden, in the hundred of Lexeden, were also ancient Crown demesnes; and they referred to the perambulation of 12th Henry III. as

showing generally that the metes and bounds of the Forest were incorrectly placed in the perambulation of 1301.

This appears to have been in the nature of a protest, on the part of the King, against the perambulation, which left him only the ancient part of the Forest and a few inconsiderable Crown demesnes; and it was followed up by a presentment in 1323, at Pleas of the Forest held at "Stratford atte Bow," that the Forest extended to the bounds laid down in the 5th and 20th Edward I. But the Great Charter of the Forest was confirmed in 1327, 1405, and 1416, the perambulation made in 1301 being expressly mentioned on the first of these occasions; and all the subsequent Courts were held within the ancient part of the Forest, or in the Royal demesnes of Colchester or Hatfield Regis, although at some of them cognizance was taken of the Regard of Chelmsford, which was one of the disafforested hundreds; and Willinghall Spain, in the disafforested part of Ongar, was fined as a defaulting vill at the Justice Seat of 1324.

Exch. Treas.
of Rect.
Essex Bag.
17 Ed. 2.

1 Ed. 3, St. 2,
c. 1.
7 H. 4, c. 1.
4 H. 5, c. 1.

Plac. For.
17 Ed. 2.

The same remark applies to the various inquisitions which were held in the 14th century as to the condition of the different parts of the Forest. They were held in 1333—1335, at Colchester, as to the Forest of King's Wood; at Hatfield Regis, as to the Forest of Chelmsford; and at Stratford atte Bowe, as to the Forest of Aungre; in 1344 at Stratford atte Bowe, and in 1362 at Berking, as to the condition of the Forest generally; in 1365 at the same place, as to the Forests of Aungre and Chelmersford; in 1369 at Hatfield, as to the Forest of Essex of the

Presentments
on Inqs.
7 Ed. 3 (1333).

Ex. Treas. of
Rect. Misc.
For. Rolls,
B. 153,
Rolls 19, 37.
Pl. For. Exch.
Treas. of Rect.
Essex, B. 27,
No. 1.

Ex. Treas. of
Rect. For.
Rolls, B. 155,
Roll 26.

Id. B. 153,
Roll 27.

Regard of Chelmersford; at Old Stratford, in 1372 as to the Forests of Aungre, Hatfield, and Waltham; in the same year as to the Forest of Chelmersford and Bekentre; and in 1374 at Romford as to the Forest of Essex in the Regard of Chelmersford.

Patents,
2 Ed. 6, pt. 3.

In the reign of Edward VI. the Forest laws were neglected, and he issued a proclamation setting forth that “yt hathe byne muche brutyd and noysed” among divers of his loving subjects that he intended to disafforest the Forest, and to destroy the deer and game there, by which many of them had been encouraged to destroy the vert, and to hinder and disquiet the deer and game, “and sembleably to murdre and kyll a nombre of the said deare, not a lyttle to our dyspleasure;” and informing them that he intended to maintain the Forest laws as his father or any other of his progenitors had done, under which every offender was liable to imprisonment for three years, and to make fine at the King’s pleasure, and to find sureties or abjure the realm.

In 1617 James I., being engaged in attempting to inclose, perhaps for a deer park, the open lands in the neighbourhood of his palace of Theobalds in Enfield Chase,¹ appears to have aroused the fears of the

Diary, 2nd
June, 1676.

¹ Evelyn, speaking of Enfield Chase in the 17th century, says: “That which I most wondered at was that in the compass of twenty-five miles, yet within fourteen of London, there is not a house, church, barn, or building besides three lodges. To this lodge” (Secretary Coventry’s) “are three great ponds, and some few inclosures; the rest is a solitary desert, yet stored with not less than 3,000 deer.”

inhabitants of Waltham Forest that encroachments would be made upon their wastes. Sir Fulke Grevyll, Chancellor of the Exchequer, in a letter to Mr. Secretary Lake, dated 28th April, 1617, speaks of the proposed purchase for the King of the Lammas Commons at Cheshunt and other property, and thus refers to Waltham Forest:—"The last weeke I had notice that the Steward of Waltham Forest being in hande with the necessarie worke for setting out the true boundaries of it, the contry growing gealouse of some further intention of inclosing their Comons began to mutyne; and not knowing how farre this publique discontent might give interruption to my Lo. Treasurer's proceedinge at Theobalds, I went to my Lo. Denny, and with him took a course for deferring of that Comission till his Ma^{ties} inclosures on this side the water were fullie finished: yet within some fewe daies after, Tresswell going to Theobalds for perfecting the surveyes of his Ma^{ties} farms now to be enclosed, what a showre of Shrewes he encountred with I leave to the storie of his own letters. Wherin y^e may see how easilie this tight Sea of busie people is raysted up with every wynde; so as a tender proceeding with them can be no preiudice."

State Papers,
Dom. Series,
James I,
vol. 91,
No. 50.

In the year 1630, at Pleas of the Forest held on the 21st September, boundaries were again laid down which practically agreed with those of 1301. The alarm and indignation of the county may be imagined, when, four years later, the Crown officers began to carry out in Waltham Forest the plan for raising money by extending the Royal Forests. Sir John Finch, then the King's

Chancery For.
Proc. 6 Car. 1,
No. 153.

Attorney-General, came to the Justice Seat at Stratford Langthorne, and, without previous notice of his intention, claimed on behalf of the Crown a right to revert to the enlarged boundaries which had been so often reduced, with such violence and pertinacity, that the grand jury acceded to his demands; though an adjournment was granted by the judges, to enable the county to instruct counsel to argue questions of law as to the effect of the ancient proceedings. A full account of the proceedings is contained in the following memorandum by Robert Rich, Earl of Warwick, who was one of the presiding justices.

“ Oct. ye 5th, 1634.

State Papers,
Dom. Car. I,
1634, vol. 275,
No. 21.

“ Last night, being the 4th of this present moneth, I came from the Justice and Oyer Seate att Stratford Laington, and being late and weary I deferd setting downe the declaration of what I saw passed in that Court w^{ch} was thus. I came on Wednesday before, being the first of October, to that towne att dinner, where I found the Justice and Oyer, accompanied wth Mr. Justice Jones and Barron Trevor his assistants and my Lord Willowby Warden of the Forrest, and all his officers and divers others w^{ch} accompanied my Brother,¹ as my Brother Newport, my Brother Cheeke, S^r Robert Rich, my Cosen Edwin Rich and many, my Lord Midelsex, Mr. Coventry, and afterwards came S^r John North and others; I found them in a great perplexity, for that the Writt from my brother was not there brought, by w^{ch} they might sitt

¹ *I. e.*, the Earl of Holland, Chief Justice of the Forest.

and p[roceed] to their business: and blame was much laied on Mr. S^t. Johns for it, who excused himselfe; he had sente it to my Lord Willowby by a footman of his, and did desier mee to excuse him to my Brother Holland whoe had fined him; and my Lord Willowby acquainted mee that he had sent for it to London: after dinner the writt came, soe as wee went to the Bench and after the reading of that and the sumons to all the Office^{rs} by my Lord Wardens warrant, they fell to calling of the Office^{rs} of the Court. First the Lord Warden and the rest, whoe delivered up their hornes¹ to the Justice and Oyer on their knees; when they read all the Officers, as Verderers, Raingers, Keepers, Under Keepers, Regarlders, Woodmen, and fower Reeves of every Towneship in the Forest; then the Grand Jury; and gave them their Oaths with other formalities of that Courte; then the Verderors deliver in the Roules of the presentments of the Swalement Court, and others were delivered by the Regarders as I take it; wth were read, and some were find for the trespasses they did; some in hunting, some for building, some for cutting their woods wth out lycence, some for not well fencing them in, some

Wednesday
afternoon.

¹ "Every Forester when he is first called ought upon his knees to deliver his horne to the Chief Justice in Eyre, which is then delivered to the Marshal. They pay a fine of 6s. 8d. before they are re-delivered. Likewise, every Woodward, when he is first called, ought to present his hatchet to my Lord." Ceremonies of the same kind were probably performed at the Swainmote. The claim by the lord of the manor of Minestead in the New Forest in 1852 states that the lord's woodward was to appear at the Swainmote Court at Lyndhurst, and place his horn on the table, and receive the same again, and present all wild beasts and venison of the Queen preserved in the manor.

Sir W. Jones,
Rep. 266.

Lond. Gaz.
1852, p. 3857.

for keeping doggs expeditated [? unexpeditated] some for making warrens wth in the Forrest, and so for divers offendo^{rs}.

Thursday.

“Then Mr. Attorney namely S^r John Finch made a Speech to the Justice in Oyer, wherein he semes much to taxe ye Regarders that they had not given in the bounds lymitts and metes of the Forrest, and earnestly pressed to have them well fined for it. They on the otherside excused themselves and sayd that att the last Justice and Oyer they had given in none, neither did theire articles comand them soe to doe, but they had p^rpared one in paper after the last Iter and brought it in to Mr. Keeling the Clerke of the Iter, whoe had it. Then Mr. Attorney Finch adrest his Speech to the Justice and Oyer, and tould him he was come to lett him and the country know he had found an auncient Record of Edw. the 1st whereby the bounds and meetes of the Forrest of Essex had bin from Bowbridge to Catway bridge in length, and in breadth from the River of Thames to Stan Street, and he would know how his Master had lost every inch of it; and adrest also his Speech to y^e lawyers there p^rsent, that if they were there for the Country they should doe well to prepare themselves for theire defence; and asked them if they were there for the Country; they answered they were then ready if any would entertaine them, but they weare not entertayned, but some of them for pticular clames wth in the Forest: whereat Mr. Attorney grew into great impatiency, and sayd he had traced them dry foot (for that was his word) and that they had made searches for theire defence, and that he would not stir from thence till

hee had had a verdict for the King if they would not make their defence. I seeing Mr. Attorney soe violent upon them, I stood up and desired a word or two to my Lord w^{ch} was to this effect: that I came there on of my love to my Lord, not knowing of anything of extending the bounds and lymitts of the Forrest from what it had usually this many yeares bin reputed. I perceaved there was never an Essex man there but myself that was not a forrester; that if I had had the spiritt of divination what Mr. Attorney would have bin att by enlarging the bounds of the Forrest, myselfe and many of the Lords and Freeholders of the Countrey would have been there wth their evidences and Charters to have given satisfaccon to that Court not to extend their bounds farther then now they were. I therefore in my owen and the Countreys behalfe did desire my Lo-Justice that wee might understand whether Mr. Attorney did intend to extend the bounds for the King, and that wee might have tyme to aunswere him soe as wee might not be surprised; and I doubted not but wee should give such satisfaccon to that Court and to his Ma^{tie}, as we might still enjoy wth quietness the possessions of our Ancesto^{rs} which had bin oute of the Forrest for three hundred and thirty yeares. Mr. Attorney replied on mee that I fought close like a man of warr at my locke,¹ but he was resolved to give noe longer tyme then till morning it growing then somewhat late, and soe willed the Councell to expect not an hower longer; soe they wente to other business of that Court, and then adjourned. On Fryday morne after the Court sett, and some business done, he caused the Grand Jury

¹ *I.e.*, at my difficulty.

to stand together to heare the evidence for the King, and after he had asked the lawyers whether they were p'pared for theyre defence, whoe answered him they were not entertayned by the Countrey neither was it possible for them soe to bee, the Countrey not being somoned nor warning given them, only to the Forresters. He toulde them he sawe the Country was sullen and he woulde proceed notwthstanding and soe willed the Grand Jury to listen to a Roule w^{ch} he drew oute from the Roule keepers bagg, very ancient, and appointed Mr. Keeling to read the Titell of it: being a Roule as I remember of the 17 of Edwd. 1^o w^{ch} made the lymitts of the Forrest of Essex to bee in length from Bowbridge to Catway bridge, and in breadth from Thames to Stan Street; after he had heard this he read an other parte of the Roule of the same Kings time, or of Edw. 2^o, w^{ch} confirmed as much, and recited an other Roule w^{ch} Mr. Attorney sayd they could not find; he then pressed the Jury to have given a verdict and not to have gone thence; but the Foreman makeing some scruple, he fell into such a rage, and threatned them and swore he would have a Verdict for the King ere he stir'd a foot thence, wth very high and threatning wordes, as he would see who durst goe against it; and wordes of higher nature and most violent Action. And when some of the Jury desired to see the Roule and to have it wth them, he grew into a further rage and said they should not see a worde but what he had read to them, comanding the Roule Keeper to goe wth them but that they should see nothing else; so they went togeather. Then Mr. Attorney moved my Lord Warden all his Officers of the Forrest should goe wth them w^{ch} they did

to the number of 40 or 50 as I conceived them by view. The Grand Jury were 16 or 17, soe they went togeather and after some two houres being away, they retourned wth this Verdict: 'That the Bounds of Forrest of Essex were from Bowbridge to Cattway bridge in length, and in breadth from Thames to Stanstreet,' w^{ch} Mr. Attorney caused them to sett theire hands to all. After this they went to other business of that Court, to the allowing and disallowing of clames, after w^{ch} my Lo: Justice and Oyer spoke somewhat to the Countrey that he had an intention to adorne that Court to an other day, wherein he woulde heare what the Countrey can say in theire defence, and that he would doe them all the right he might; and soe concluded that day what other business being Friday. On Saturday after they had satt a while, I tooke my leave and retourned home, where next day I sett downe this relation as far as my memory would give me leave,

“ WARRWICKE.

“ The lawyers' names I saw there were Mr. Atkines, Mr. Attwood, Mr. Scott, Mr. Sise, Mr. Turner, Mr. Edward Rich, Mr. Jermin, and others I know not. Gentⁿ, S^r Ro. Quarles, Mr. Wrighte, Mr. Fanshawe, Sir Hen. Mildmay of Wansted, my Lo: Peeter's Solicitor, Sir Tho. Barrington's Sollicitor and others. Willis the Nurse's husband.

“ After the Verdict was given in Mr. Attorney made a great complainte against Searle one of the Grand Jury, that when the Jury were togeather he had p'duced a coppie of Record in paper of King John's, and moved

to know whether the Lo. Justice would fine him there, or transmitt him to the Starr Chamber; whoe transmitted him to the Starr Chamber, but upon intercession of some friends pardoned him."

Proc. at
Justice Seat,
Bodl. Lib.

Ranke Ge-
schichte, 2.
197, Eng.
vers. 2. 34.

The adjourned sitting was held at Stratford on the 8th April, 1635, in the presence of Henry Earl of Holland (who was conveyed to the Court in a Royal carriage¹), His Majesty's Judges, including Sir John Finch, then Chief Justice of the Common Pleas, the High Sheriff of the County, the officers of the Forest, and a Jury. Finch, although as Attorney-General, he had argued the case with so much heat on behalf of the Crown, delivered the opinions of himself and the other judges.²

¹ I am indebted to Mr. T. C. Baring for the reference to this passage in Ranke, who by a misprint makes the date 1633.

² The great case of *The Commissioners of Sewers v. Glasse*, in which the rights of the commoners over the Forest wastes were established, was heard by the late Sir George Jessel, the Master of the Rolls, although he had previously held a brief for some of the defendants; but this was at the request of all the parties to the suit, to which there were twenty-one defendants; and perhaps there could be no stronger proof of the profound confidence which was felt in the character and learning of that distinguished judge.

The following is from the shorthand writer's notes at the trial:—

"THE MASTER OF THE ROLLS: I objected to hear this case because I had a prejudice against the plaintiffs' case, and I told them so in Chambers. I had been counsel for the defendants, not on the merits, but on the demurrer, and I had a prejudice in favour of my own clients. In the first instance I did decline to hear it on that ground; but it was very much pressed upon me, and I was told that it could not be heard at all unless I consented, and therefore I reluctantly consented." (Printed Notes, p. 1404.)

After a long argument by four counsel on behalf of the shire, and by the Solicitor-General for the King, Finch said that he and his brothers had considered the records on both sides and the points of law stated, and had unanimously agreed that the presentment of the bounds made at the last sitting should be enforced. The presentment was then, but it seems not very willingly, entered by the Earl of Holland, who said he would do anything he could to mitigate the Forest law, which he knew to be sharp and severe.

The above statements by the Earl of Warwick are borne out by Rushworth; who further says that the (Forest) Court, to effect their design, did unlawfully procure undue returns to be made by jurors, in joining with them other persons who were not sworn; the Court also using threatening speeches to make them give a verdict for the King; and that, on the final sentence of the Court, "many inhabitants were fined great sums of money, or [must] forthwith depart from their houses and estates, and retire out of the Forests, for that they were found by verdict given against them to have encroached upon the Forests."

Sir Simonds D'Ewes remarks upon these transactions that "Besides this great and dreadful wound inflicted by this levy of Ship money upon the subject's liberty in general, this present year, 1635, the county of Essex had in particular a most heavy and fatal blow; for the whole shire upon the matter, except the hundred of Tendring, which the inhabitants had enjoyed quietly for about the

*Hist. Collec-
tions, vol. 3,
p. 1057.*

*Autobio-
graphy, 2, 136.*

space of 400 years free from Forest laws, was found to be within the Forest of Havering, otherwise called the Forest of Essex. It was found to be so by a jury of verderers, rangers, and other forest officers; and that verdict afterwards adjudged to be good in law by Finch, Joanes, Treaver, and some other judges, of which the before mentioned Croke and Hutton were none. The Crown and Sceptre are free from this sad fate of that county; were that judgment right or wrong, upon the consciences of the jury and the judges it must rest, to be determined at the last dreadful day. God of his infinite mercy preserve the true religion amongst us and without the intermixtures of heresy, superstition, idolatry, whatsoever become of our estates and fortunes!"

It is interesting to find that Croke and Hutton, who had denied the legality of ship money, also refused to support the presentment as to the bounds of the Forest; but somewhat strange that D'Ewes, who had many friends in Essex, and was constantly passing through it to go to his country house in Suffolk, and who from his position must have known the real nature of the transaction, should throw the whole blame upon the jury and the judges.

May, Hist. of
Long Parl.,
p. 16.

The enlargement of the Royal Forests which was attempted through the whole country¹ was reckoned with the compelling of knighthood, with tonnage and poundage, and with ship money, among the national grievances; and was no doubt planned and carried out

Strafford
Letters, I. 413.

¹ "The Justice Seat in Essex hath been kept this Easter week, and all Essex has become forest; and so they say will all the counties in England but three—Kent, Surrey, and Sussex."

by or with the help of Finch and others, in order to raise money for the King.¹

¹ Finch was certainly a strong and unscrupulous partisan of the King; but there seems to be nothing to justify Lord Campbell in stating that he was universally execrated in his own times, and that when on the bench he prostituted in the most shameless manner his judicial duties for his private ends; or in classing him with such a vulgar ruffian as Jeffreys, or even with Scroggs. The language of his contemporaries points to no such feeling against him as would have been provoked by acts like theirs.

Lives of the
Chancellors,
vol. 2, p. 559.

May, an impartial writer, says that "he was a gentleman of good birth, of an high and imperious spirit, eloquent in speech, though in the knowledge of the law not very deepe." When, at his own request, he appeared to defend himself before the House of Commons previous to his impeachment, he spoke, says Rushworth, "with an excellent grace and gesture. Many were exceedingly taken with his eloquence and courage; and it was a sad sight to see a person of his greatness, parts, and favour, appear in such a posture, before such an assembly, to plead for his life and fortune."

Page 85.

Vol. I, pp. 124,
128.

On his impeachment the principal charges against him related to his conduct about the Forests, and about ship money. There were also accusations of misconduct in his office of Chief Justice, and a general charge (which seems to have been the foundation of Lord Campbell's statement) that for his private benefit he had endamaged and ruined the estates of very many of His Majesty's subjects, contrary to his oath and knowledge. But only one instance of corruption is specified. The impeachment was presented three weeks after Finch, considering with what impetuosity and violence everything was managed, got up early on the morning after it was resolved to impeach him, and escaped in disguise into Holland; and it would of course be most unjust to assume the truth of all its contents.

Rushworth,
vol. I, p. 136.
State Trials,
Hargrave,
vol. 7, p. 314.

Lord Falkland, who managed the impeachment, said little or nothing about the charges of private corruption. His speech was for the most part an echo of the impeachment; but in one part of it he neatly summed up the effect of Finch's public acts, by remarking that "he gave our goods to the King, our lands to his deer, our liberties to his Sheriffs; so that there was no way by which we had not been oppressed and destroyed, if the power of this person had been equal to his will, or that the will of His Majesty had been equal to his power."

Rushworth,
vol. I, p. 139.

The Forest Courts do not appear to have attempted to enforce these judgments. No officers were appointed, or presentments made, in the districts to which they related, the sole object apparently being to extort money from the owners of the afforested lands. This had been already done before Charles' advisers obtained a formal judgment as to the bounds of the Forest—for in the time of Elizabeth (1563) Sir Henry Appleton and others paid to the Crown 500*l.* for the disafforestation of the manors of Jarvis Hall (6,660 acres) and South Bemfleet (3,000 acres), the farm of Leigh Park (180 acres), and other estates in the hundred of Barstaple, and there were doubtless other like transactions. In the same hundred Paul, Viscount Banning, after 1625, compounded for his manor of Vange at Noke; and, amongst many such transactions after the judgment of 1635, the Governors of the Charterhouse, in 1638, compounded for Southminster and other manors in Rocheford hundred; Sir William Marten for the manor and parish of Nettlewell in the hundred of Harlow; and in 1639, Francis Stonard for the manor of Steeple Grange in the hundred of Dengie.

Morant, 1.
264.

Id. 1. 245.

Id. 1. 319.

Camb. MS.
Harl. MSS.
6853, fo. 589.

History, 2.
197.
Eng. Vers.
2. 34.

Rushworth,
4. 206.

It was not until the year 1640, when large sums must have been raised by many payments of this kind—it is said by Ranke, that in Essex alone they amounted to 300,000*l.*—that the King attempted to retrace his steps. On the 16th March in that year, being just four months after the meeting of the Long Parliament, the Earl of Holland signified to the House of Lords, that the King had commanded him to let them know “That His Majesty, understanding that the Forest laws are grievous

to the Subjects of this kingdom, his Majesty, out of his Grace and Goodness to his People, is willing to lay down all the new Bounds of his Forests in this kingdom; and that they shall be reduced to the same Condition as they were before the late Justices Seat held."

Accordingly, in the same year an Act was passed by 16 Car. I, c. 16. which it was declared that from thenceforth the meets, meers, limits and bounds of all the Forests should be taken to extend no further than those commonly reputed, used or taken in the 20th year of the reign of James I.; and all subsequent presentments, and all perambulations, surveys, extents, and other acts theretofore made, by which the bounds of the Forest were further extended, and all presentments and fines by reason of them, were declared void. And no places where no Forest Courts had been held, or verderers chosen, or regard made, for sixty years next before the first year of the reign of Charles I. were to be taken to be within the Forests.

Inquests were to be held for ascertaining the proper bounds; the returns were to be taken into the Court of Chancery; and all places beyond the certified bounds were to be as free as if they had never been or been reputed to be forest.

Another clause in effect confirmed all charters of disafforestation made since the 20th year of James I., though no relief was given to the unfortunate persons who had been fined and had paid for charters of disafforestation after the late extension of boundaries. Finally, the Act contains a clause saving to the owners and occupiers of lands left out of the Forest, such rights of common as anciently or accustomably they had enjoyed,

St. 5.

notwithstanding anything in the present Act, or any Act or ordinance in 33 Edward I., or any custom or law of the Forest or other thing to the contrary.

Petty Bag
Office, 17
Car. I.

Almost immediately after the passing of this Act a perambulation was made by virtue of a Commission under the Great Seal, directed to the Earl of Warwick and forty-four other Commissioners. The boundaries shown in the map, and set forth in the Appendix, agree almost exactly with those laid down in 1301, except that they omit the liberty of Havering, and the demesnes of King's Wood, Writtle, and Hatfield. By the almost supernatural powers of an Act of Parliament, these boundaries became in contemplation of law, the boundaries for times past as well as for those to come, and they so remained until the disafforesting in 1851 of the Forest of Hainault.

Thus ended a controversy about the bounds of the Forest, which had lasted from the time of King John.

Scobell's
Acts, 1653,
c. 26.

The whole Forest was in no small danger of extinction during the Commonwealth. On the 22nd November, 1653, the Long Parliament passed an Act vesting all forests and all honours and lands within their precincts and perambulations belonging to the late King, his relict or eldest son, and all royalties, privileges, &c., belonging to them, in trustees, to be sold for the benefit of the Commonwealth.

The trustees summoned all persons pretending to have any interest in the Forest of Waltham to put in their claims, a great number of which were accordingly sent in. But Cromwell in the following year took the matter out of the hands of the Parliament, and soon

FOREST OF WALTHAM.

According to the
Perambulation of
1641,
With the
PURLIEUS.





afterwards we hear less of the Commonwealth and more of the Protector. In 1654 an ordinance was made by “his Highness the Lord Protector, by and with the advice and consent of his Council,” that Commissioners should be appointed by his Highness under the Great Seal to survey all the late King’s Forests, according to the perambulations made in 17 Car. I., and to consider how the same might, both for the present and the future, be best improved and disposed for the benefit and advantage of the Commonwealth. They were directed to make minute inquiries into the situation of the Forests, and the public and private rights in them, including rights of wood and pasture; and to hear and determine claims of rights and interests; to make allotments in satisfaction of them, and for highways, and to treat for the disafforestation of afforested lands.

Scobell's
Acts, c. 43.

The Commissioners — Widdrington, Whitelocke, Sydenham, and Montagu—recommended that the Forest rights of *his Highness* should be restored, and the Courts re-established. They reported to the Council, that the Forests being already by Act of Parliament vested in trustees to be sold for certain uses, “and the said trustees conceyving themselves lymitted to dispose in that way and to these ends and noe other” (although it was impossible then to put the Act in execution), there was a doubt of the title, and difficulty either in selling or leasing, and great uncertainty as to the profit to his Highness and the Commonwealth by selling or leasing the Forests, by reason of the claims of interests to be satisfied. It was therefore suggested that four Forests should be sold by way of experiment, and that as to the rest, “Lawnes and Inclo-

State Papers,
Domestic, In-
terregnum,
1655,
Bundle 652,
fo. 422.

asures belonging to his Highness should be let from year to year at the best rates that could be got for them; that fellible coppice woods should be preserved till fit for sale, and then sold; and that for finding out and restoring his Highness' rights in Forests, preservation of timber, punishment of wastes, spoiles, incroachments, and other trespasses committed within the Forests, officers belonging to Forests, where any were wanting, should be supplied; that the Wardens, Lieutenants, and other chief officers of the forests should be ordered forthwith to cause Courts of Attachments and Swainmott Courts to be kept, in order to a Justice in Eyre's seat; and as soon as conveniently it might there should be a Justice in Eyre's seat."

The restoration of the Forest system thus advised by the Commissioners was not effected during the short remaining period of the Commonwealth. After the Restoration, the Courts and their machinery were renewed for a short time in 1670; but the principal Courts again fell into disuse; and the Court of Attachments, with the staff of Ministers of the Forest, remained until the middle of the present century, as the only representatives of the ancient form of government.

Here therefore, I leave, to be resumed in connection with the subjects of the succeeding chapters, the general history of the Forest, that I may describe its laws, its Courts, and its Ministers; the wild animals which frequented it, and how they were preserved and hunted and otherwise persecuted; and the customs which affected the Forest lands and their owners.

CHAPTER II.

The Laws and Courts of the Forest.

" Ask, to the Forest Laws, what man gave birth ? " ¹

 HE Capitularies of Dagobert, dated in the 7th, and of Charlemagne, and Louis the Debonnaire early in the 9th centuries, contain many scattered regulations concerning the Royal Forests in France to which I shall hereafter have occasion to refer, and which are thus summarized by Houard: " The King's Foresters had the duty of preserving the Forests; they had power to make assarts in places proper for cultivation, and were to see that no lands were put under cultivation in which woods flourished. All the game was under their care. They received the service of sparrow-hawks or other birds fit for hawking, which were due to the King. They let out the pannage to farm. From time to time the King's hunters visited the Forests, and held council there, and the Foresters were bound to conform to their regulations. They kept account of those who had taken wolves in traps, or with hounds. The hunting of wolf cubs, took

Contumes
Anglo-
Normands, 2.
565 note,

¹ Peter Pindar.

placé regularly every year in the month of May. The Forester was subordinate to the Compté. This officer also had the care of the Royal Fisheries, and saw that none exceeded the rights of chace granted to him by the Prince."

Houard, Dict.
de la Coutume
de Normandie
Forêts, Art. I.

These laws were preserved by the Dukes of Normandy, and with additions and modifications, may have been transplanted into England as well before¹ as after the Conquest.

§ xxi.

But it does not follow that the English Forest laws were entirely derived from them. In a country like England, full of woods and wastes, and governed by Kings who delighted in hunting, Forest regulations may very well have had an independent origin; and that such regulations existed here at a very remote period is shown by a passage in the Forest law attributed to Canute, which is certainly of great antiquity, and which speaks of a regulation as then existing *ab antiquo*.

Pt. I. xi.

The author of the Dialogues of the Exchequer says, with truth, that the rules of the Forests, and the punishments or acquittals of offenders in them, were kept wholly apart from the other judgments of the kingdom, and submitted to the will of the King alone, or of some adviser of his specially deputed for the purpose. He adds that the laws of the Forests were considered to rest upon the voluntary institution of princes. In this view

Cart. Sax. I.
377.

¹ Alcuin, the favourite instructor of Charlemagne and his Court, was an Englishman, who had been sent by Offa, King of the Mercians, on an embassy to Charlemagne; and the latter was in correspondence with Offa in the latter part of the 8th century.

he is apparently followed by the Bishop of Chester, who observes that the legal enactments of Henry II. were passed in the presence or by the advice of the archbishops, bishops, abbots, and nobles; that there was a well-drawn line between the common law of the kingdom and the Forest jurisdiction, which was the arbitrary rule of the Sovereign; and that the very maintenance of the form was a protest against despotism.

Preface to
Ben. Pet.
vol. 2. cxviii.

It may be, and probably is the fact, that many of the Forest regulations were brought into or made in England by the sole authority of the Kings and of their Forest officers. But if it was intended to say, that the form of passing the general laws of the kingdom in the presence of the kings, councillors, or great men, distinguished those laws from the general forest laws, this is inaccurate; because both before, and in, and after the time of Henry II. general laws for the Forests were made nominally by the advice of the King's Councillors, in the same manner as the other laws of the realm.

Assuming for the moment the authenticity of Canute's Forest laws, they begin thus:

"These are the regulations of the Forest, which I Canute the King establish and make with the advice of my chief men."

Constitutiones
de Foresta.

The laws of Henry II.:

"This is the assise of our Lord Henry the King, son of Matilda, in England, concerning his Forest and hunting, by the advice and assent of his Archbishops, Bishops, and Barons, Earls, and nobles of England, at Woodstock."

Assises of
Woodstock
(1184).
30 Hen. 2.
Rog. de Hove-
den, 2. 245, n.
(M. R. Ser.),
Ben. Pet. 2.
clxi. *id.*

And again, those of Richard I. :

Assisa Reg.
R. I, de Fores-
tis (1198),
Hoveden,
p. 784, vol. 4,
p. 63 (M. R.
Ser.).

An. 1235,
Annales
Monastici,
I. 251 (M. R.
Ser.).

“This is the assise of the lord the King, and these the rules of his Forests in England, made with the consent and advice of his Archbishops, Bishops, Abbots, Earls, Barons, and Knights of his whole kingdom.”¹

We also find that a dispute, which closely touched the personal interests of the King, as to the respective duties of the Chief Justice of the Forests and the bailiffs of the King's demesnes in respect of vert and venison, was settled before Henry III., the Archbishop of Canterbury, and the other magnates of the King's Council.

And in later times the Forest laws were often limited and altered by Parliament both in favour of and against the interests of the Crown ; and it was therefore rightly said by Coke that “the laws of the Forests of England are certain and established by authority of Parliament, and not as in other countries changeable and floting in uncertainty *ad principis placitum*.”

Much of the hardship suffered by the inhabitants of the Forests arose from the arbitrary regulations of the Forest officers, and from the manner in which they enforced the laws, as much as from the laws themselves. This appears from various ordinances, by which relief was given against demands not directly authorized by the general Forest laws, and by the proceedings of the Forest courts.

For. Laws of
Canute, xxx.
and of H. 2
and Richd. I,
passim.
Ben. Abb.
2. cxlix.

¹ It is true, that in each of these bodies of law the King speaks as the maker of the law ; but the same form occurs in some of the general laws of the kingdom. In the Assise of Clarendon (1166) the phrases “*vult dominus rex*” and “*prohibet dominus rex*” are quite common.

The complaints of John of Salisbury in the reign of Henry II. appear to be directed to oppressions of this kind. "It was strange," he said, "that it should be a crime, punishable by loss of goods or limbs, to make traps for birds, to set snares, to entice them by call or pipe, or to over-reach them by other arts. The birds of the air, and the fishes of the sea, one might suppose to be common, but they belong to the State, and the Forest law claims them wheresoever they fly. . . . The husbandmen are kept from their fields so that the wild beasts may roam over them. That these may have the more space for grazing, the soil is taken from the cultivators, the newly sown grounds from the farmers, the pastures from the herdsmen and shepherds; the beehives are shut out from the flower beds,¹ and the bees themselves are scarcely allowed their natural liberty."

It is certain that these complaints were, for the most part, well founded. The fish of the sea, it is true, were not subject to the Forest laws, although the Crown had a prerogative right to whales and sturgeon.² But there was a rule, that all the metes of the Forest belong wholly to the King, so that where a river was a "Forest bounder,"

Polycraticus,
lib. i. cap. 4.

Cust. and
Assises of the
Forest, Ruff-
head, St. App.
v. 10, p. 26.
Harl. MSS.
No. 6839,
Art. 40.

¹ So that the bees might be driven to take shelter in the woods, where the honey would belong to the King.

The word "floralibus," used by the writer, probably refers to places planted with flowers for the feeding of bees, which were largely cultivated.

In a Charter purporting to be of the 7th century, land is granted "cum . . . pascuis apium." The services due from the bee farmer to his lord in the 10th century, are set forth in the *Rectitudines Singularum Personarum*.

Cod. Dipl.
No. 7.
Cart. Sax.
No. 25.

² The sturgeon wholly belonged to the King; but as to the whale, the ancient usage was that the King should have the head, and his consort the tail.

Britton,
ch. 18, § 4.
Bracton, lib. 3.
De Corona,

the whole river was the King's, and none ought to fish therein without licence.

Many of the Essex grants and claims included the right of fishing in the waters of the manors; and the Abbot of Waltham claimed, under such a grant, a right to fish in the river Lee, which was a Forest "bounder."

The concessions made in the supposed Forest Charter of John, and in that of Henry III., that every freeman might have in his woods his eyries of hawks, as well sparrow-hawks¹ as falcons, eagles and herons, and the honey found in his woods, also show that these had been previously claimed on behalf of the King.

A statute of Henry VIII., which prohibited the taking of the eggs and young of falcons, may account for the directions to the Regarders, and for the inquiry to be made by the Grand Jury in Waltham Forest, in 1634, "Whether any have taken hawks in the Forest without licence." But the ancient claim of the Crown to honey in the Forest woods may be traced in the claim of the lords of the manor of Wanstead, in 1489, to the profits of bees, honey, and wax, in Wanstead wood;² and in the charge at the Swainmote (which probably followed an old form), "Item, if any man do take out of the hollow trees any honie, wax, or swarmes of bees within the Forest, yee shall do us to weet."

Again, almost 500 years after the time of John of

¹ Hawks and sparrow-hawks were to be provided for the use of Charlemagne by his foresters. A regulation, that to ensure a supply for the King no private person should take the hawks in his woods in the Forests, would be a natural consequence of such a law.

² The lord of the manor of Minstead in the New Forest claimed in 1852 the honey found in his woods.

Duch. of Lanc.
Misc. Rec.
Pl. For.
4 H. 7.

M. Par.
Chron. Maj.
vol. 2, p. 601.
Wilkins,
p. 372.
Ch. For. §13.

32 H. 8, c. 11.

Harl. MSS.
No. 6839, fo.
261, Art. 27.

Duch. of
Lanc. Misc.
Rec. 4 H. 7.

Manwood,
ed. 1615,
p. 226, § 15,
and Charge at
Justice Seat,
id. p. 241.

Exchequer
Bills and

Capit. Reg.
Franc.
Balazius,
vol. 1, col. 336.

Lond. Gaz.
1852, p. 3857.

Salisbury, Sir Bernard Whetstone, lord of the manor of Woodford, in Essex, in his answer to the suit of the Attorney-General for making illegal fences, draws a picture of the losses caused by the deer to himself and his tenants, which, if it was accurate, leaves very little ground for charging the satirist with exaggeration. They were forced, he said, to give over ploughing and sowing their arable land, of which the greater part of the demesnes of his manor consisted. He was still obliged to pay composition wheat and oats for the King's household, though not a foot of the demesnes had been ploughed for the last ten years, by reason of the number of deer which would utterly destroy the corn; and the cessation of ploughing caused the increase of the deer, by reason that the barren and dry fallows were converted into sweet and fresh green pastures to layer and feed the deer.

The code of Forest laws which is attributed to Canute is the earliest known in England. It is also the only body of English Forest law which is complete in itself; and as it purports to have been made both for the English and the Danes, who had many settlements in Essex, the Forest of that county must at one period have been governed by it, unless, as some writers have insisted, it is a forgery.

Its authenticity was long since disputed by Coke, ^{4th Inst. 320.} and though it has been quoted by many learned writers—by Spelman, Sharon Turner, Palgrave, Ellis, Kemble, and Lappenberg—without any expression of doubt, Mr. Freeman also pronounces it to be a forgery, probably of ^{Norman Conquest, ed. 2, vol. 5, p. 456.}

the time of Henry I.; designed, as he says, to employ the venerated name of the great Dane, to shelter the legislation against which men cried out.¹

I shall presently consider the reasons given both by Coke and Freeman for these conclusions.

Hol. Chr. I.
207 (1574).
Sp. Art.
"Foresta."
Thorpe, vol. I,
p. 426.

The Code, as we have it in Latin, is printed in Holinshed's Chronicles from a copy which was in his possession; and also in Spelman's Glossary, and in Thorpe's Ancient Laws and Institutes; but I have been unable to ascertain where any more ancient copy, or the original is to be found. It consists of thirty-four sections written in concise language, and clearly and skilfully arranged. The first twenty sections provide for the government of the forests by fifty-two officers in each province of the kingdom. Four of these, called the chief men (*primarii*) of the Forest, were to be taken from the higher class of freemen, called by the English thanes (*thegenes*), and were to be persons who knew the customs.

§§ i. x.

They were to administer justice both to English and Danes, and to determine civil and criminal matters affecting the lower classes of officers; those which affected themselves being determined by the King. They had regal powers (saving the rights of the King); and four times in the year they were to hold Forest meetings and inquiries into offences relating to vert and venison, (called "much-hunt," *i. e.* the great hunting,) to which all accusations concerning any thing done in the Forest were to be brought, and submitted to the threefold ordeal. Each

§ xi.

Const. Hist.
I. 200.

¹ The Bishop of Chester also says that the work is spurious, or so much interpolated as to be without value, and refers to the objections of Maurer and Brunner.

of these chief men had yearly for a fee, from the King's stores,¹ two horses, one with and the other without a saddle, one sword, five lances, a spear, a shield, and two hundred shillings of silver. § vi.

Under each chief man, were four of the next class of officers (mediocres), called in English lesser thanes (les thegenes), and in Danish yoongmen, who had the care of the vert and of the wild beasts, but were not to interfere with the administration of justice. These were always to be accounted freemen, such as the Danes called Ealdermen; and each had for his yearly fee a horse, a lance, a shield, and sixty shillings of silver. §§ ii. iii. vii.

As to the
mediocris
thainus of the
A.-Saxons,
see Seld. Tit.
Hon. 518.

It may be inferred that they were chosen from the lowest order of freemen, called Twyhynde men or ceorls, their wer-gild being, according to a later clause, of the same value, (two hundred shillings,) which was fixed for that class. § xxxiii.

Thorpe, Anct.
Laws, 2. 481,
484.

Under each lesser thane were two of yet lower rank, (minuti), whom the English call "Tinemen" (A.-S. Tyn =ten), perhaps the chief of an association of ten men.² To them was given the care of vert and venison by night, as well as servile duties. If any of them were a serf he was to become free as soon as he was placed in the Forest; and all these were maintained at the King's cost. Each of them had a lance, a crossbow³ (arcubalistam), and fifteen shillings of silver. § iv.

See Canute's
Sec. Laws, 20;
and Art.
Hynden, and
references in
Thorpe's
Anct. Laws,
vol. 2 Gloss.
Maurer, In-
quiry into
A.-S. Mark
Courts, p. 33.
§ v.
§ viii.

¹ Here the Code has "quos Angli vocant Michni"; of which last word, though I have sought the help of several learned persons, I can find no satisfactory interpretation. The word is probably corrupt.

² "And we will that every freeman be brought into a hundred and into a tithing who wishes to be entitled to the right of purgation, and to his wer in case any shall slay him after he is twelve years old."

³ It is, perhaps, doubtful whether the crossbow was used in England

§ ix.

All these officers were freed from the burdens of the hundred law, from war scot, and from suits by strangers.

The provisions for their appointment bring us to the first of Mr. Freeman's objections to the whole Code. "What," he says, "can be made of such a state of society as we find there? First we hear (c. 2) of *mediocres homines quos Angli 'les thegenes,' nuncupant*; then (c. 3) of *liberales quos Dani 'Ealdormen' appellant*; then (c. 4) of *minuti homines quos 'Tinemen' Angli dicunt*; lastly (s. 12) of *liberalis homo, i. e. 'thegen'.*"

The Code is certainly not open to this criticism. Mr. Freeman begins by citing the second clause; but if he had begun with the first, he would have found in it the *liberalis homo*, the "thegen" or thane of clause 12, in his proper place in society, if the Code is dealing with grades of society; or in his proper rank as a Forest officer, if that be the meaning.¹ And the *mediocres*, in

in Canute's time. The word "arblaste" occurs in the description of a fray which happened in 1078 or 1079, the last years recorded in one of the MSS. of the Saxon Chronicle; see Ingram's Edition and the M. R. Series.

Mr. Jenner, of the British Museum, who has examined the original MS., informs me that the handwriting is considered to be of the latter part of the 11th century. It is, therefore, nearly contemporary with the period mentioned in the record; and some time must have elapsed before the word "arcubalista," used in Canute's Code, became corrupted into "arblaste." The intermediate form "arbalistarii" is used in Domesday. It is, therefore, not impossible that Canute's Tinemen may have been furnished with crossbows; but it may be that at the somewhat later date of the compilation of the Code, the crossbow was common, and the officers in question were actually armed with it.

¹ The primary meaning of the word "thegen" is a minister or servant; and it is remarkable that almost everywhere in the old records of this Forest its officers are called "ministers of the Forest." As to the duties and dignities of the different classes of Anglo-Saxon thanes, see Selden's Titles of Honor, and Thorpe's Ancient Laws, Glossary.

MS. Cott.
Tib. B. iv.

Sir H. Ellis,
Intro. to
Domesday, i.
91.

English "lesthegenes," of clause 2, are the same persons of whom in clause 3, it is declared that they are always to be accounted liberales or freemen; a direction which is repeated in clause 5 as to the minuti or lowest class of Forest officers; the intention being that all of them, from the highest to the lowest, should have the *status* of freemen. The Danish name, "yoongmen," which is also given to the mediocres in clause 2, perhaps refers to their character of Forest officers; that of "Ealderman," in clause 3, indicating their position as freemen; for the Ealderman with the Danes was a person of much less importance than among the Anglo-Saxons.

See § xxi.
Kemble,
Saxons in
England, 2.
149.

The punishments prescribed by the Code are carefully graduated. False testimony and violence against § xiv. the chief Forest officers were punished, the former by loss of right to testify and by a fine of 10s.; the latter by § xv. loss of liberty and goods in the case of a freeman, and of the right hand in the case of a serf for the first offence; and to each death for a second offence. Penalties are § xvi. prescribed for breaches of the peace in the Forest; and § xvii. &c. it is declared that the punishments of the free and the § xxi. unfree, the lord and the serf, the well known and the obscure, were not to be alike; nor were those for civil and criminal matters; for beasts of the Forests and Royal beasts; for dealings with matters relating to vert (*i. e.* trees and shrubs) and hunting; the latter, says the Code, having of old been among the greater offences which deserve punishment; while those against vert (save that they were breaches of a Royal Chase) were hardly thought worthy of notice.

The law was very severe as to offences against §§ xxii.—xxv.

venison. For causing a beast of the Forest to run (either by chance or intention), so that it panted for breath, a freeman was fined 10s., one not free 20s., and a serf was scourged.¹ These penalties were doubled if the beast was killed. But for chasing a Royal stag, so that it panted, the freeman was imprisoned for a year, the unfree for two years, and the serf became an outlaw, in the expressive Anglo-Saxon a "frendlesman." If the beast were killed the freeman lost his freedom, the unfree his liberty, and the serf his life.

§ xxvi.

Bishops, abbots, and king's thanes were not to be prosecuted for hunting if they did not kill Royal beasts; if they killed them, they were punishable at the pleasure of the King. In the Code, the words used here are "Episcopi abbates et barones mei." The word *barones* may be suspected as an anachronism, but it was no doubt introduced by the translator as the equivalent of King's thanes, as it is in a parallel passage in the laws of Edward the Confessor.

See Selden,
Titles of
Honor, 518.
§ xxi.

The laws relating to the wild and other animals, and to the offences against vert within the Forests, are noticed in other chapters. The former are not classed after the manner used by the Normans; and it is

¹ It has been said, I suppose on the authority of the words "careat corio" here used, that under Canute's law offenders were ordered to be flayed alive. Such a meaning is absurd, as well as improbable; for the Code would then inflict this horrible punishment for a small offence, while greater crimes were more lightly visited. The expression, that an offender "shall pay with his hide," *i.e.*, be scourged, is to be found in several of the other codes of the Anglo-Saxon period. "If any one put his hide in peril, and flee to a church, be the scourging forgiven him."

Laws of Ine,
§ 5, and see
Laws of
Edward and
Guthrum,
§§ 7, 8.

remarkable that throughout the Code there is neither mention of nor allusion to the fence month, which was one of the principal institutions of the Norman Forest system.

Upon the rights of hunting in the Forest as expressed in this Code, Sir E. Coke grounds his opinion, 4th Inst. 320. which Mr. Freeman appears to adopt, that it is not authentic. The Code declares that every freeman shall § xxx. have at his will rights of venison or vert in his plains on his own lands, but without right of chace; whereas, by one of Canute's secular laws, which Coke considers to be the true law, and which is repeated in § lxxxi. 4 Inst. 320. the laws of Edward the Confessor, the land owner has the rights of hunting both in his woods and his plains. De Heretochiis, Wilk. A.-S. Laws, 205.

It is surprising that these regulations should be thought to be inconsistent. It appears on the contrary that the variation between them supports the authenticity of the Forest law. The latter relates to what might be done within, and the secular law to what might be done beyond the bounds of the Forest. In the one case the beasts might be killed on the Forest plains, that is, the open unwooded spaces, by means of such noiseless artillery as was then in use; and hunting was forbidden lest the deer should be disturbed in the woods: but in the unafforested districts no such restriction was necessary.

Each of the regulations as to the right of hunting, Can. Sec. § 81. Can. For. § 30. Ed. Conf. Wilk. 205. in the secular and Forest laws of Canute, and in that of Edward the Confessor, ends with a warning against trespassing upon the rights of the King where he might

wish to have his hunting; and this has been used as an argument in support of the pretended general right of the Kings to afforest the lands of their subjects. It is, however, a claim to hunt and not to afforest; it may refer to a right to hunt, either upon waste lands not made into forest, or upon *leen* lands in which the subject had no permanent estate; or possibly to an ancient prerogative claim of the British Kings to hunt over their subjects' lands, such as that which was plainly asserted in the ancient laws of Wales.¹ And perhaps some of the regulations as to the King's hunting in the purlieus of the Forests may be founded upon this ancient claim.

See Ch. III.
inf. Rangers.

Upon the whole I see no reason to doubt that the Code is a late Latin version or compilation of Anglo-Danish Forest laws, which were themselves founded upon ancient regulations or customs. In some respects it resembles the Norman Forest laws. In each there was a separate establishment of judges, who held Courts, made inquiries, punished offences, and were invested with supreme authority over all Forest matters; and subordinate officers, discharging duties which in later times were performed by regarders, foresters, and other ministers. In each also there were severe, though not identical punishments for breaches of the Forest laws, and regulations respecting the keeping and mutilation of dogs in the Forests.

¹ Dimetian Code (S. Wales), bk. ii. c. xiii.—“It is free for the King to hunt everywhere in his country;” *Leges Wallice*, lib. 2, c. xxv. § 6—*Licitum est regi ubique venari per suam terram*; and *Leges Howeli Boni*, lib. 1, c. xv. § 1, in almost the same words.

The literary forger almost always betrays himself by errors of time or place, or by other inconsistencies, such as those which I have pointed out in the pretended charter of Edward the Confessor, mentioned in the last chapter: but with the slight exceptions which I have already noticed and explained, I can find none in this Code.

This opinion in no way clashes with the remarks of Spelman and of Dr. Brunner¹ on the Norman character of the legal terminology of the Code, which appears to me to bear internal evidence that in its present form it is the work of a Norman.

As in the Capitularies of Dagobert and many other ancient Latin documents, native words are here introduced by way of explanation, where the exact meaning could not be expressed in Latin; a circumstance which affords strong evidence that the contents of the document were derived from a native source. The writer of this Code, after using the Latin word, invariably adds "which the Angles" or "the Danes" (as the case may be) call by such a name; as, for example, "canes quos Angli 'greihounds' appellant." See Codex
Dipl. *passim*.

He speaks as being neither an Angle nor a Dane, and was therefore probably a Norman.²

But as he refers to the Angles and the Danes as distinct races, and to their languages as still in use, it

¹ Holtzendorff's Encyclopädie, p. 232.

² Many of the Anglo-Saxon charters show in this way the nationality of their writers: *e.g.*, "in commune silfa q. nos Saxonice in gemennisse dicimus." (Cod. Dipl. ccxli., and see *id.* cclxi., cclxxvii., cclxxxix.)

seems probable that the work is of a date not later than the time of Edward the Confessor.

I am unable to understand Mr. Freeman's suggestion, that this Code was forged for the purpose of sheltering the Forest legislation of the Normans under the name of Canute. However severe Canute's laws may have been, in prescribing the loss of the right hand and afterwards death, for violence against the Forest officers, and death for offences against the King's deer, the Normans surely could find no shelter under them for their own barbarities.

Sax. Chron.
An. 1087.
Mat. Par.
Chron. Maj.
and Hist.
Angl. An.
1085.

Rog. of
Wendover,
M. R. Ser. 4.
63; Wilkins,
351.

Assise of
Woodstock,
§ 1; Stubbs,
Sel. Ch. 150.

The chroniclers tell us that plucking out the eyes was the punishment in the time of William the Conqueror for slaying the stag, the roe, or the wild boar. The English were "vehemently" oppressed by the Forest extortions in the time of Henry I.; and the nature of the oppression is shown by the Forest law of Richard I., that if any should offend and be convicted in anything touching matters of hunting or of the King's forests, full justice should be done upon them as was done in the time of Henry the King's great-grandfather, viz., that they should lose their eyes, and suffer mutilation. The laws of Henry II. were prefaced by a similar order, though the punishments were not specified.

William of
Newburgh,
Hist. Rer.
Angl. lib. 1,
cap. 3.

But it was not only in vindication of the King's forest rights that these savage acts were committed. When we are told that in the time of Henry I. little distinction was made in the chastisements of slayers of stags, and homicides, the writer brings as heavy a charge, so

far as regards cruelty, against those who authorized the punishments of the latter, as of the former.¹ Nor were homicides and stealers of deer the only persons who suffered these punishments. In the reign of Henry I. Ralph Basset and the King's thanes held a mote in Leicestershire, at Huncothoe, and there hanged more thieves than ever were known before, that is, in a little while, forty-four men, and despoiled of their eyes and mutilated six men. "Many true men," adds the chronicler, "said that there were several who suffered very unjustly. First the people were bereaved of their property and then they were slain. The man that had any property was bereaved of it by violent guilds and violent moots. The man that had not was starved with hunger."

Sax. Chron.
An. 1124.

The responsibility for these cruel laws does not, however, rest entirely upon the Kings. I have already shown that they were expressed to be made with the consent of the great ecclesiastics and nobles, who enjoyed some exemptions from their severity, and had certain liberties in the Forests—liberties which the Charter of the Forest expressly reserved to the archbishops, bishops, abbots, priors, earls, barons, knights, and other persons both ecclesiastical and secular, and to the Knights Templars and Hospitallers.

Canute F. L.
§ xxvi.

Ch. For. § 17.

The ecclesiastics had a still more substantial interest in the Forests in the shape of tithes. The Bishop of

Wilk. 372.
Ch. For. § 11.
Ass. of Woodstock, § 9.

¹ The punishments were not dictated by mere delight in cruelty: the object was that the culprit might remain a living example. "Interdicimus ne quis occidatur vel suspendatur pro aliqua culpa, sed &c.; ita quod truncus remaneat vivus in signum proditiōis et nequitiae suae." (Carta R. Wilhelmi Conq. de quibusdam Statutis, § 67.)

Wilkins, 229.

6 John. Ch.
Roll, p. 136,
R. C.
Pat. Roll,
p. 44, R. C.
Plac. For.
17 Ed. 2.

London in 1204 had a grant of the tithes of such venison as was taken for the King's use in Essex; and one of his successors, Stephen, and the Dean and Chapter of St. Paul's, claimed these tithes for the bishop in 1323-4, although the claim was then thought doubtful; the words "before the King" being written on the margin of the roll.

Dial. of Exch.
Bk. 2, xi.

Richard, another Bishop of London, if he be rightly credited with the authorship of the Dialogues of the Exchequer, was not ashamed to justify the payment of tithes for the Forests, by the suggestion that as the greater part of the payments from them came from pleas and exactions, the payment of tithes seemed in some sort to make amends for all illicit gains. In the reign of Edward I. the claim of the Bishop of Carlisle, as Rector of Thoresby, to forest tithes, drew from William de Inge, the Attorney-General, the sarcastic remark that the business of bishops and rectors was to take care of sheep, and not of wild beasts.

Chron. Maj.
An. 1232.

The cruel punishments already mentioned, and the cutting off the hands and feet of offenders, which was also practised in the time of the predecessors of Richard I., were abolished by him. It seemed to the pious King, says Matthew Paris, that it was too inhuman so to treat men who were created in the image of God, on account of wild beasts, which according to natural law were given alike to all; and fines, imprisonment, and abjuration of the realm were ordained in the place of them. A similar decree was made by John.

Wilkins, 372.

Several bodies of Forest law, to which I shall have

occasion to refer, were made after the Conquest. Of these the laws made at Woodstock by Henry II.; those of Richard I.; the famous Charter of the Forest made by Henry III.; and a code in almost the same terms, which bears the name of John,¹ are the most important.

¹ It is considered by the Bishop of Chester, that the charter which bears the name of John is only that of Henry III. with an altered salutation. Luard asserts that R. Wendover and M. Paris, having omitted the Forest clauses in the Great Charter, inserted this from the records at St. Albans, and put John's name instead of Henry's at the beginning.

Select
Charters, 338.
M. Paris,
Chron. Maj.
vol. 2. 598, n.
(M. R. S.).

The facts do not appear to me to support these conclusions.

The circumstance that in each of the five places in which "King Henry our grandfather" is mentioned in the charter of Henry III., the same words are used incorrectly in that of John, does, at first sight, raise a strong inference that the contents of the latter document were copied from the charter of Henry. But the conclusion is weakened when we find that Richard, who in Henry's charter is correctly called our uncle, is in John's also correctly called "our brother." The contents of some of the clauses are also different; and in other places, where the meaning is the same, the language varies.

The disafforestations in Henry's charter include the woods afforested by Richard or by John; but Richard's afforestations only are dealt with by the charter of John. The liberty given by Henry's charter to certain persons to take a beast or two by view of the foresters, or on sounding a horn, is unrestricted. In John's charter it is limited to the occasions upon which the privileged persons are coming to the King by his command, or are returning from so doing.

The charter of Henry III. contains the clause saving to archbishops, bishops, abbots, priors, earls, barons, knights, and others ecclesiastical and civil, and to Templars and Knights Hospitallers, their liberties and free customs in the Forests and beyond them, and in warrens and other places, which, except the special reference to the Forests, appears in Magna Charta. But this clause is omitted from John's Forest Charter.

It is clear, therefore, that there are important distinctions between these documents. I think it may be inferred that a Forest Charter was prepared and intended to be issued in the reign of John, and was the foundation of the charter of Henry III.; and that from the

Coutumes
Ang.-Norm.
2. 563.
Skene's
Regiam
Majestatem.
§ 11.

Cotton, MS.
Vesp. B. 7,
fo. 92.

A curious body of regulations attributed by Houard to the middle of the 13th century, is alleged by Sir John Skene to be the work of William of Scotland, who began to reign in 1165. It contains the provisions in the English Charter of the Forest, which licensed great ecclesiastics and nobles, in passing through the Forests on their way to or from the King, to kill a deer or two ; and it corresponds very closely with a document called "Articles of Attachment of the Forests," a MS. of which in the Cottonian library is in a handwriting of about the time of Edward II.¹

Skene's regulations, however, contain several provisions which are not to be found in the Articles of Attachment. In particular, they specify punishments for trespasses in the Forest during the fence month, which is not even mentioned in the latter document.

In the Forest of Essex, as in most of the other Royal Forests, the Forest laws, from some time after the Conquest, were administered by three Forest Courts, known as the Court of Justice Seat, the Swainmote, and the Court of Attachments or Forty-day Court. As the Swainmote always retained its Saxon name—which prob-

carelessness of a scribe, or some other accident which cannot now be explained, the document which has come down to us as the charter of John has been taken partly from one and partly from the other of these documents.

¹ A copy of this document in the Record Commissioners' edition of the Statutes, vol. 1, p. 243, is said to be taken from the Lansdowne MSS., vol. 480, fo. 195 ; but the reference is wrong. Both versions are probably corrupt. Ruffhead's edition of the Statutes, vol. 10, Appendix, p. 25, has a very inaccurate copy of the Cotton MS. Rastall's and Cay's Abridgments have also versions of the articles.

ably signifies the Court of the Ministers¹—and the Court of Attachments was anciently called the Woodmote, it may be inferred that they both existed in some form before the Conquest, and were afterwards incorporated into the Norman system. Of the Ministers of the Forest a more particular account will be found in the next chapter. They were the chief warden or justice, with assistant justices; the steward, afterwards the hereditary lord warden; the sub-steward or lieutenant of the Forest; foresters, verderers, regards, a ranger of the purlieus, woodwards, and reeves; the last two being offices of Anglo-Saxon institution.² There were also, in many Royal Forests, King's agisters; but except in the hundreds of Tendring and Lexden in 1250, I have found no notice of any in Waltham Forest; because the Crown, for many years before the dissolution of the monasteries, had no estates there.

Cotton
Roll xiii. 5.
Duch. of Lanc.
Misc. Rec.
Pl. For. 1489.

The Forest Courts in no way interfered in questions of right, between the lords of the Forest manors and their tenants; or with the right of the former to hold their Courts, so that they did not meddle with Forest matters; but it was forbidden to any Castellain, Constable, or Bailiff, to hold pleas of the Forest either for greenhue or hunting. And when, contrary to the assise of the Forest, the Prior of Bermondsey in 1323 held pleas of vert in his Court, he was fined at the Justice Seat for the trespass.

Attachment
Rolls, 23 Nov.
1719.

Wilkins, 372.

Charta
Forestæ, § 16.

Exch. Treas.
of Rect.
17 Ed. 2.

¹ Anglo-Saxon: Swein, a minister; but see Lye, Art. Swan.

² We read of a Swainreeve (Swan geref) in the 9th century. And the rights of the Woodward in the 10th century are set forth in the *Rectitudines Singularum Personarum*.

Cod. Dipl.
ccxix.
Thorp's
Ancient
Laws, I. 441.

The Courts also gave no protection to persons who, without being properly qualified, took upon themselves to deal with offences against the Forest law.

Pl. For.
5 Ed. 1.

An unauthorized act of this kind in Essex, is recorded in 1277, in the form of a complaint by Richard de Bernstede, steward of the Abbess of Berkinge, that Alexander Not of Havering entered the wood of the Abbess by night, and felled an oak, value 5s.; and the jury having found that he entered the wood by day, and that the value of the oak which he felled was only 2s., he was ordered to satisfy the Abbess for the damage, and was also in mercy for the transgression, that is, for the offence against the vert. But this was condoned at the instance of the King's Chancellor; while De Bernstede for making a false accusation was fined half a mark.

There was then a cross complaint against him by Not; as to which the jury said that De Bernstede, finding Not in the wood where he had felled the oak, tried to attach him, and on his resistance, De Bernstede seized and bound him, took him to Barking and imprisoned him for three days, and afterwards delivered him to the forester and the verderer, but did not strike him as alleged. Therefore Not was in mercy. And *because De Bernstede was not sworn of the Forest*, he was also in mercy, and was to satisfy Not for the transgression.

Assise of
Woodstock,
§ 13, Ben.
Abb. (M. R.
Series), vol. 2,
clxi.

It is not quite clear whether the meaning is that De Bernstede was not a sworn officer of the Forest, or that he had not complied with the ordinance of Henry II., that every man of the age of twelve years remaining "within the peace of the hunting" (*i. e.* within the jurisdiction of the Forest laws), and clerics who held lay

fees, were to be sworn to the peace of the hunting. There is little notice of this practice in the Essex records, though it certainly existed in the Forest in early times. The grand jury were instructed at the Essex Forest Courts, to inquire whether the rule had been observed; and in answer to the justices' inquiries in 1630, it was found that "the custome of swearing the inhabitants of the Forrest w^{ch} are above the age of twelve yeares, to be trew to the game, hath been likewise discontinued many yeares." And the Reeves of Nasing and of Roydon hamlet answered, "We know not that any have been cal'd thereunto." The increase of the population probably led to the discontinuance of the practice in the Forest of Essex.

The oath was in rhyme:—

"You shall true Liegeman be
Unto the King's Majestie.

Unto the beasts of the Forest you shall no hurt do,
Nor to any thing that doth belong thereunto;
The offences of others you shall not conceal
But to the utmost of your power you shall them reveal
Unto the officers of the Forest,
Or to them who may see them redrest:
All these things you shall see done,
So help you God at his Holy Doom."

Manwood,
p. 249,
ed. 1615.
Book of Oaths,
1649, fo. 302.

The Court of Attachments, anciently the Woodmote, and also called the Verderers', or the Forty-day Court, whatever may have been its original nature and jurisdiction, was held after the Conquest under the Forest law of King John, and of the Charter of the Forest; which directed that the foresters and verderers should meet every forty days to see the attachments of the Forest,

Wilkins, 372.
Ch. For.
9 H. 3, § 8.

Coke, 4th
Inst. 289.

Manwood,
ch. 21.

both for greenhue and hunting, by the presentments of the foresters and afore them attached. The attachments were received and ordered to be enrolled by the Verderers, who presided as judges of the Court, and who afterwards returned them to the Swainmote. The Court of Attachments had originally no power to proceed judicially except as to trespasses relating to vert, the value of which was less than 4*d*. The matter was then thought not worthy to be heard before the Chief Justice of the Forest, and the Court of Attachments might both assess and levy the fine, and enter it on their roll. Additional powers which were given to the Court in modern times, for enabling it to deal with encroachments in the Forest, are mentioned hereafter.

Ch. For. Proc.
6 Car. 1,
No. 153.

There are no early records of the Court of Attachments of Waltham Forest; but it was found in 1630, in answer to the justices' inquiries, that "for the most pte the Courte of Attachment hath bin kept." There are some records in the British Museum of its proceedings in the time of Queen Elizabeth, and others may perhaps be in existence. In a series of rolls, extending with some interruptions from 1713 to 1848, and which were printed at the cost of the Corporation of London for the purposes of the inquiry before the Epping Forest Commissioners, are recorded the doings of the Forest officers during that time; and these, which form a large part of the modern history of the Forest, are fully noticed in the next and other chapters.

Const. de For.
c. xi.

We have seen that the Forest Court or inquiry into

offences relating to vert and venison, which was established by Canute, was to be held four times in the year. The Swainmote was also a Court of the Ministers of the Forest for receiving presentments and trying the truth of them by a jury of freeholders; and the direction in the law of John, and in the Charter of the Forest, that it should not be held oftener than thrice in the year, seems to imply that it had previously been held more often. It may therefore have had its origin in Canute's Court; the Woodmote, as a minor Court, performing the same functions as that, which under the Normans became better known as the Court of Attachments. It seems that the Swainmote was not held in all the Forests, as the Charter of the Forest directed that it should be only § 8. in those counties in which it was wont to be held.

Wilkins, 372.
9 Hen. 3, § 8.

Of the three periods fixed for the holding of the Swainmote, one was fifteen days before the Feast of St. Michael, when the King's agisters came to agist his demesne woods; and another about the Feast of St. Martin, when they came to receive his pannage: to these two Courts were to come the foresters, verderers, and agisters. The third Swainmote was to be held at the beginning of the fifteen days before the Feast of St. John the Baptist, which was the time of the fawning of the deer; and to it were to come only the foresters and the verderers. This arrangement shows the great importance attached to the King's rights of pannage for swine, in those forests in which he had demesne woods.

Ch. For.
9 H. 3, § 8.

It was, however, directed by laws made in the

Ord. For. 34
Ed. 1, st. 5, § 1;

1 Ed. 3, st. 1, reign of Edward I., and re-enacted during that of
c. 8. Edward III., that presentments of trespasses in the Forest concerning vert and venison, should be before the foresters, verderers, regarders, agisters, and other ministers of the Forest by the oath of knights, and other honest men of the nearest parts; and that the truth being inquired of, the presentments, with the accord and consent of all the ministers, should be solemnly confirmed and sealed with their seals; to which the statute of Edward III. added that an indictment made in any other manner should be void.

There were therefore present at the Swainmotes jurors for each of the Forest bailiwicks, to inquire for the King upon the Articles of the Forest.¹

§ 4.

The same ordinance of Edward I. directed that ministers of the Forest who were surchargers (*i.e.*, were guilty of extortion) should be removed and imprisoned at the discretion of the justice of the Forest or his lieutenant, those who placed them there being also punishable at the King's pleasure. And at every Swainmote inquiries were to be made of the surcharge of the foresters and other ministers, "and of their oppressions done to our people; and they shall make thereof amends, and shall be punished as above is expressed." These enactments show the existence of great irregularities by

Duch, of
Lanc. Misc.
Rec. 4 H. 7.
Pl. For. Exch.
Treas. of
Rect. Essex,
Bundle 26,
pt. 1, No. 21,
pt. 2, Nos. 10
and 73.

¹ They had fee deer for their services. In 1489 a soare was ordered to be given to William Cooke and his fellows, free tenants of the Forest. In 1663 and 1667 the underkeepers of Loughton Walk were directed to kill a fat buck of the season for the freeholders, in one of these years, of the Forest, and in the other, of the parish of Loughton; and in 1666 the underkeeper of New Lodge Walk received a similar direction for the benefit of the freeholders of Waltham and Chingford.

the subordinate Forest officers, who probably lived almost at free quarters upon the inhabitants. The next provision shows that the highest officers were also guilty of oppression. It declared "that divers people be disinherited, ransomed, and undone by the chief wardens (sovereins gardeins) of the Forests on this side Trent and beyond, and by other ministers against the form of the Great Charter of the Forest, and against the declaration made by King Edward, son of King Henry." And therefore, because the chief wardens (chiefs gardeins) of the Forests had not observed the same form hitherto, it was agreed and ordained that from thenceforth no man should be taken or imprisoned for vert or venison unless he were taken with the manner,¹ or else indicted in the form already mentioned; and then the chief warden (soverein gardein) of the Forest was to allow him to be bailed till the Eyre of the Forest without taking any thing for his deliverance, and in default he should have a writ for the purpose out of the Chancery. If the warden, after receiving the writ, did not admit the person accused to bail, he was to be admitted to bail by the sheriff in the presence of the verderers, to whom the names of the bail were to be delivered; and if the warden were attainted thereof, he was to be liable to

¹ A man was said to be taken with the manner:—for venison, when he had wounded a wild beast, and was found with a hound drawing after him to recover it; when he was found at a stand ready to shoot at a deer, or with greyhounds in a leash ready to slip; when he had killed a beast, and was found carrying it away; when he was found in a Forest in a suspicious manner, and was bloody: and for vert, when he was found cutting or carrying it away.

the plaintiff in treble damages, and was also to be committed to prison and ransomed at the King's will.

Another Act for preventing illegal imprisonments and ransom of the captives by the officers of the Forest was passed in the 7th year of Richard II.

Duch. of
Lanc. Misc.
Rec.

There are records of several of the Swainmotes held in Waltham Forest. The earliest of these relates to a Court held at "Bukkershyl" (Buckhurst Hill) on the 6th of October, 1495, before two verderers, three regarders, two foresters, five woodwards for the half hundred of Waltham, and eight free tenants (six others having made default), thirteen woodwards of the bailiwick of Ongar, and ten free tenants. It contains many presentments relating to the destruction of deer of various ages, either by persons named, by murrain, or by unknown means; and to the "overleyynge" of the common by divers persons with "bolokes," "schepe," or other animals, the values of which are specified.

Directions for
ordering For.
of Waltham.
Camb. MS.
Exch. Bills
and Answers,
Essex, Car. I,
No. 31.

Ch. For. Proc.
6 Car. I,
No. 153.

I have not seen any records of Swainmotes held in the 16th century. James I. directed that one should be held every year at the least; but Sir Robert Heath said, in 1628, that hunting having been less esteemed by Edward VI., Mary, and Elizabeth than by former Sovereigns, there was less care during their reigns of the due observance of the Forest laws; and the keeping of the Courts of Swainmote and Justice Seat was almost totally neglected and disused. In 1630 it was found, in answer to the inquiries of the justices,

that "the Court of Swainmote hath bin discontinued for many yeares."

The revival by Charles I. of the Forest laws led to the holding of a Swainmote at Stratford Langthorne, on the 14th September, 1630. At this Court there was a very full attendance of Ministers. The steward in fee of the Forest was Robert Earl of Lindsey. Philip Earl of Pembroke and Montgomery, Chief Forester of Loughton and Woodford Walks, was absent on the King's service; but there were present Edward Earl of Norwich, Chief Forester of Epping, New Lodge, and Chingford Walks; Sir Thomas Edmunds, Deputy of the Earl of Lindsey; Sir Henry Edmonds, Chief Forester of Chappell Hennault Walk; Sir Robert Quarles of Leyton and West Hennault, and Sir Henry Rowe of Walthamstow Walks; four verderers, twelve regards, twenty-seven under-foresters, eleven woodwards of the woods of the King and others; the principal Ranger of the Forest, the Ranger of the liberty of Havering, and four under-Rangers; with sixty free tenants of the half hundred of Waltham, twenty-nine of the hundred of Ongar, and forty-seven of the hundred of Becontree; and for each of those bailiwicks twelve jurors, to inquire for the lord the King upon the articles of the Forest; and a thirteenth, separately named, who, perhaps, was the foreman.

Of other Swainmotes, one was held at Stratford Langthorne on the 14th September, 1631, another at Chigwell on the same day in 1632, at which there was a great attendance of Ministers; another at Stratford

Chancery For.
Proc.
Waltham,
Bundles 137,
143.

For. Pro. Ch.
6, 7, 10, 16
Car. I,
Bundles 143,
137, 140, 142.

Pl. For. Exch.
Tr. of Rect.
County Bags,
Essex, No. 8.

Langthorne on the 15th September, 1634, and another at Brentwood on the 11th June, 1640; at the Justice Seat held in 1670, the roll of another Swainmote held on 9th June, 1666, and adjourned to 14th September, 1670, was presented. And it may be that some were held after that date.

Cap. 23, ed.
1615.

The steward of the Forest was present at these Swainmotes, and the Courts are stated on the Rolls to have been held before him and the other ministers; but he did not sign the Rolls. This is in accordance with the remark of Manwood, that "although the chiefe warden of the Forest doth sometimes use to sit at this Court, or his lieutenant . . . yet it should seem that the chiefe Warden of the Forest is no judicial officer appointed to sit there; for if hee were, hee could not appoint his deputy to sit there for him; for a judiciall place cannot be executed by a deputie."

The mode of proceeding of the Swainmote was, that after calling the names of the officers, and fining such as were absent without good reason, and after swearing the jurors, the latter made their presentments after this manner: "It is presented by the 12 jurors of the bailwick of . . . within the Forest of Waltham in the County of Essex and convicted" (*i.e.*, found to be the fact) "by the foresters, verderers, regarders, and other ministers of the said Forest, that A. B. on such a day, within the Forest, kept one dog unexpeditated. And that the same dog on such a day, in such a walk within the Forest, chased a certain male deer called a prickett, against the laws and assize of the Forest."

The fines for the various offences were "affeered," *i.e.*, fixed, and were written in the margin of the roll; a memorandum being added that this was done, and that the indictments were affirmed by the assent and consent of all the foresters, verderers, regardsers, and other officers. The roll (which was of parchment¹) was sealed by the chief foresters, verderers, and regardsers, and was signed by the steward. Every person indicted was then bound in a penalty of 20*l.*, with two sureties each in 10*l.*, to appear and answer what should be objected against him at the next Justice Seat; not to depart without the licence of the Court; and in the meantime to be of good behaviour towards the King's game, and the vert and venison of the Forest.

The Swainmote which was held next before the Court of Justice Seat, had also before it the return of the regardsers of the Forest, whose duty, as will be shown more fully in the next chapter, was to view the trespasses done in the Forest every third year before the holding of the Justice Seat, and to present the Regard roll at the Swainmote.

The province of the Swainmote was therefore to inquire whether an act alleged to be an offence against the Forest law had been committed; and if it had, to certify the fact, and to fix the proper fine on the assumption that it was an offence: the power of deciding that it was so, and of punishing the delinquent, being reserved to the Court of Justice Seat over which the Chief Justice of the Forests

¹ At a Justice Seat for Windsor Forest each verderer was fined 20*l.* Sir W. Jones, for delivering in their rolls on paper, when they ought to be engrossed on parchment. Rep. 267.

or his deputy presided. The manner of holding the Court of Justice Seat is minutely described by the Earl of Warwick in his letter which has been set out in the first chapter. It is by no means clear at what date the Court was established, in the form in which we find it in the earliest of the Waltham records.

Ben. Abb.
(M. R. Ser.)
i. 323.

The office of Chief Justice of the Forests was at an early period combined with that of Master Forester; but several justices were assigned to a single forest or group of forests by Henry II.; who also appointed Master Foresters both of his own forests and of those of his barons and knights. These justices visited the forests at the same time when the justices itinerant went their circuits; at which time it was required by an ordinance of Richard I., that through all the counties through which they went, they should convene before them at the Pleas of the Forest, the archbishops, bishops, earls, barons, and all free tenants; and from each vill a reeve and four men, to hear the precepts of the King.

Exch. Lord
Treas. Re-
member.
Memda.
28 H. 3.

A writ commanding the Sheriff of Essex to allow Alicia de Holdeng and her tenants to be free from an amercement made at the last Iter of the Forest before the King's justices, they having already paid their share, proves that a Forest Court was held in Essex before 1244; and the fragmentary record of a Court held in 1250, refers to one held by Robert Passlewe, which may have been the Court at which he deprived Richard de Munfichet of the Stewardship of the Forest.

Cotton Roll
xiii. 5.

4th Inst. 291.

The Court of Justice Seat was not to be held oftener than every third year, and was actually held at much longer intervals. It was summoned forty days before the

time fixed for the sitting, by the sheriff of the county under the King's writ. And its duties were not only to punish by fine and imprisonment at the discretion of the judge, offences against the Forest laws, which had been already examined and "convicted" by the Swainmote, and such as were presented at the Justice Seat itself, but to determine claims of liberties and franchises; such as the rights to have parks, warrens, and coney burrows, to be quit of assarts and purprestures, to be out of the Regard of the Forest, to kill beasts of chase, and other matters of the like nature.

It also performed within the Forest many of the duties which were commonly discharged by the Court Leet of a manor. It dealt with the decay of bridges, the deepening of fords, the neglect to scour ditches, to mend ways, and to train hedges; the blocking up of sewers; and the keeping of unlicensed ale-houses: with the broken bridges and foul ways, as preventing the lord the King from hunting in the Forest without danger; and his subjects from passing thereon without great peril to their lives and loss of their things and goods, "to the grievous damage of the Forest." In one case we are told that in frosty weather in consequence of the overflow of a sewer, "the isse standeth and doth ofend the King's deere, that they cannot have noe passage over the grownd."

Manwood,
ch. 24.

Answers to
Justices'
Inquiries,
6 Car. 1,
No. 153
(21 Sept.
1630).

Another finding sets forth that Locke Bridge, within the precinct of the Forest, and leading from Walthamstow to Hackney, was cleane decayed and broken down. "And that one Clement Serbye" (who might have studied his profession under Peter of the Brig, celebrated

in "The Monastery"), "doth exercise a Ferrye there, and will not pass over any poore Passengers be they never soe many in number, unlesse they will paye to him a half penny a peece both for goeing and comeing. And will not carry horses over, unless the Owners thereof will give to him such prices as hee will demand, although the water be never so dangerous to passe over."

Ch. For. Proc.
6 Car. I.

Again, it was presented that a great stone bridge, called Bow bridge, and a certain other stone bridge called Charl . . bridge, otherwise Channeles bridge, both in the Forest, in the parish of Westham; and a certain path, in English a "causway," leading from Bow bridge to the vill of Stratford Langthorne, were ruinous, broken, and in great downfall for default of repair and mending thereof. Then it was found that Henry Mewtys, of West Ham, by reason of a certain mill (called Wiggen Mill), and lands of which he was tenant,¹ and which were situate near the site of the late monastery of Stratford Langthorne, ought to repair the said bridges and causeway; and he saying nothing in bar, the sheriff was ordered to distrain upon his lands.

Plac. For.
Exch. Treas.
of Rect.

Alehouses were also under the jurisdiction of the Justice Seat. They were always treated as nuisances, because they harboured poachers and the numerous vagabonds who resorted to the forests. At the Justice Seat of 1670, the Lord Chief Justice (Sir Thomas Fanshaw,

Lyson's
Environs
of London,
vol. 3. 390.

¹ These bridges were built, and the road made, by Matilda of Scotland, the Queen of Henry I. She also gave manors, and the mill mentioned above, formerly called Wiggen Mill, to the Abbess of Barking to repair them.

deputy of the Earl of Oxford), by the advice of Chief County Bags, Essex, 22 Car. 1. Justice Vaughan, Justice Wyld, and Baron Wyndham, and the King's Counsel present, declared that the trade was a "nusans" to the forests; and that no person could use it without the licence of the Chief Justice in Eyre without being liable to punishment by the Forest laws, with which the licences of the justices of the peace could not dispense.

The records of the Justice Seat held in 1631 contain Ch. For. Proc. 6 Car. 1. an exact account of the names of all the then keepers of alehouses and victuallers in the following 16 villis of the Forest. There were in

Great Ilford, 3.	Dagenham, alehouse keeper, 1 ;
Little Ilford, 1.	victualler, 1.
Loughton, 3.	Lambourn, alehouse keepers, 2 ;
Waltham Holy Cross, 21 ; and	innkeeper, 1.
innholders, 2.	Walthamstow, 7.
Roydon hamlet, 1.	Chigwell, 7.
Layton, 5.	Wanstead, 1.
Chingford, 3.	Woodford, 5.
Epping, innholders, 5 ; victu-	Stratford Longthorne, 9 ; and
allers, 10.	innholders, 2.
	Barking, 6 ; and innholders, 3.

The licences contained a condition that the persons Attachment Roll, 15 May, 1749. licensed should not entertain or harbour any deer-stealers or persons suspected to be such, and should in all things behave themselves according to the laws and customs of the Forest.

In these and other matters the Chief Justices of the Forest assumed considerable powers. Several proclamations are extant in which they empowered the Forest officers to kill all dogs trespassing in the Forest ; to seize By Lord Breadalbane in 1757 ; Lord Sydney, 1789 ; Mr. Grenville, 1809.

all guns and nets kept without authority ; all wood, underwood, turf, &c. cut or dug without licence ; and all horses, carts, and materials used in carrying them ; and to search alehouses¹ for unlawful guns, nets, and weapons ; and required the verderers to sell the things taken for the benefit of the captors. The beadles and other Forest officers were also ordered to give notice of the proclamations in the towns, churches, and other public places in or adjoining the Forest.

Pl. For.
5 Ed. I.

The records of the Justice Seats of 1250 (38 H. III.), 1277 (5 Ed. I.), and 1292 (20 Ed. I.), show that the Forest government was then extended over a large portion of the county of Essex which was disafforested in 29 Edw. I. The Court of 1277 was held at Chelmsford, and its proceedings include pleas of vert and venison concerning the half hundreds of Lexden, Wenstre, and Thurstaple, as well as of the hundred of Waltham ; the quarrel already mentioned about the Abbess of Barking's oak tree, being among the entries. Many persons are fined ; some give pledges, and others are presented for offences against vert. One found sureties and paid a mark. Another was ordered by the sheriff to attend the Court, but "because he is feeble he is pardoned for the King" (*i.e.*, for the benefit of the King's soul). And other entries were made to which I shall have occasion to refer hereafter.

Then came presentments about the inclosure of parks and warrens ; and pleas of venison of the hundreds

¹ This direction was omitted in 1789 and 1809, being probably considered to be beyond the powers of the Chief Justice.

of Harlow, Ongar, and Waltham; the regard of Colchester and of Ongar; and many entries relating to wastes of woods, and to old and new assarts; and then the roll of charters, including those of the Abbots of Stratford, of Waltham, and St. Paul's, London.

At the Justice Seat of 1292, also held at Chelmsford, similar matters are dealt with, and are more fully recorded; and in addition we have the presentment that the Forest extended from Stratford bridge to Cattewad bridge, and from the Thames to the Stanstrete.

Exch. Treas.
of Rect. Plac.
For. No. 2. a.

The next Justice Seat of which the record remains was held in 1323-4 (17 Ed. II.) at "Stratford Bow." In this case the inolment of the charters precedes the presentments and the claims. The charter roll includes the charter of the hundred of Tendring, by which "two hundreds of Tendring" were disafforested, and many other charters and claims of liberties in the Forest, some of which are allowed, but others, for which no warrant was shown, are referred to the King. And a presentment was again made as to the extended bounds of the Forest corresponding with that of 1292. This was probably intended as a protest against the disafforestation of 1301, and to preserve the King's rights such as they were over the disafforested districts.

Pl. For. Exch.
Treas. of
Rect. County
Bags, Essex 3,
No. 3.

Pl. For. Ex.
Treas. of
Rect.
17 Ed. 2.
M. 10. d.

I have seen no records of the holding of any other Justice Seats for 165 years after that of 1323-4, nor any records of Swainmotes before 1495. It may be that the ravages of the plague in 1349, 1362, and 1369 prevented the holding of the regular Forest Courts during the latter half of the 14th century.

Duch. of
Lanc. Misc.
Rec. 4 H. 7.

The next Justice Seat of which there is a record was held in 1489 at Waltham Holy Cross. Its proceedings are recorded at great length. First we have an exemplification of the King's letters patent appointing the justices of the Forest, the original having been lost; then the justices' precept to the sheriff to summon twenty-four honest and lawful men of every hundred within the Forest, and round about the same, who were to inquire and do those things which then and there should be enjoined them on the part of the King.

See the
Ordinance of
R. 1, *supra*.

Charge of C.J.
Harl. MSS.
6839, fo. 261.

These inquiries (of which in 1634 there were 93) extend to the minutest details concerning the acts of the officers and inhabitants and other people in the Forest which were contrary to its laws or might tend to its injury; and conclude with a comprehensive direction to make true presentment of the state of the Forest, by setting forth its bounds, the number of its bailiwicks, and of the officers and ministers in every bailiwick, its woods, coppices, and timber trees; and how many deer, male and female, red and fallow, were in each bailiwick.

The precept goes on to direct the sheriff to cause proclamation to be made in markets, fairs, and other public places within the county, that all who claimed liberties, franchises, privileges, or profits within the Forest should come and show by what right they claimed them; and that the sheriff and the bailiffs of the hundreds should also come with the names of the men and the precept.

Then comes the return (*responsé*) of the sheriff, Henry Teye, Esq., stating his compliance with the precept, and giving the names of the men sworn for

the hundreds of Becontre and Waltham Holy Cross, and the half hundred of Waltham.

Next, a precept by the justices to the warden of the Forest, requiring him to cause to come before them all the foresters, verderers, regarders, agisters, woodwards, and all other ministers of the Forest, with rolls, writs, tallies, and other things come to pass since the last pleas, "every one for his own time, and as it concerns his own duties separately to answer and to act:" and to summon the free tenants who have lands or tenements within the metes of the Forest, and from every town and village within the Forest and county four men and the provost (reeve); from every borough there twelve honest and lawful men, and all others who ought to come before the justices; and all attached or "convicted" persons detained in custody, or enlarged on bail, or by surety, for trespasses of vert and venison within the Forest and county done since the last pleas, with their bail and sureties; and all persons claiming liberties or franchises in the Forest.

Then the responsé of John Earl of Oxford, the Custodian (Warden) of the Forest, containing the names of the Forest officers, viz., the lieutenant (locum tenens), the riding forester, and four other foresters, the ranger, the verderers, the regarders, the woodwards (the agisters and keepers of parks being blank), twenty-one free tenants, and seventeen vills, with their four men and reeves; but no burgesses—none of the Forest vills being corporate towns; and those who claimed liberties in the Forest, viz., the Abbot of Bury St. Edmunds, the Abbot of Waltham, the Abbess of Berkyng, the Prioress of

Stratford-at-Bow, the Abbot of Stratford Langthorn, the Dean and Chapter of St. Paul's, and the laymen; to all of whom time was granted to bring in their claims.

Then a number of presentments, some relating to vert, some to venison, some to the surcharging of the Forest pasture, and one to the stopping of a public way.

Then the regarders' return.

Sic.

Then warrants by the justices to the keeper of the Forest, or his lieutenant, to deliver fee deer to divers officers of the Forest, viz., to Robert Plumer and his fellows, verderers of the Forest aforesaid, one male deer and one female deer in winter; to James Blount, Knight, lieutenant of the Forest, one male deer; to Reginald Pympe and Richard Barle and *his* fellows, regarders of the Forest, two deer called soures, and two female deer in winter; to the clerk of the Swainmote one deer; to William Cooke, Gent., and his fellows, free tenants of the Forest aforesaid, one soure; to William Heydon, one of the clerks in Session, one male deer; to William Jerlofeld, another clerk in Session, one male deer; and to Richard Harpur, "our deputy in the office aforesaid," four oaks and one male deer; and in each warrant is added, "taken of our gift as the" [*name of office*] "there at whatever session there held in Eyre of the state of the Forest, by ancient and laudable custom have hitherto been used and accustomed to have."

Then comes a list of the persons found to have offended against the Forest laws, and their sureties. The first is M. Ciprian de Turner, of London, Gentyلمان; and another Lombard, to wit, Ambrosius de Saluagiis, of London, merchant; with three other London merchants,

all apparently foreigners, and other offenders, some of London, and others living in or near the Forest.

Lastly come the claims of a great number of land-owners in the Forest to rights and privileges which, as they alleged, had been granted to them, and the evidences of which, so far as was in their power, they produced.

In 1558, Queen Mary directed Sir Edward Walgrave, Sir William Petre, Sir Henry Tirrell, Serjeant Browne, Mr. Sollycytor, Mr. Barners and Mr. Powle, who had been appointed by "Therle of Sussex, Chief Justice of the Forests on thisyde Trent" to be his deputies,¹ to be attendant at Ilford for the purpose of holding a Court of Justice Seat on the 22nd August.

St. Pap. Dom.
Mary, vol. 13,
No. 44,
27 July, 1558.

This Court was probably held, although no record of it has been found; for on the 24th February, 1564, Queen Elizabeth directed Serjeant (then Justice) Browne to act for the Earl of Sussex at the adjourned sessions to be held upon Tuesday before Shrove Sunday; remarking that he had assisted the Earl of Sussex with his advice at the sessions lately held by him for the Forest "w^{ch} we p'ceave yoⁿ did very well to the furtherance of ou^r service."

St. Pap. Dom.
Eliz. vol. 36,
No. 20.

A letter written by Robert Johnson to the Earl of Salisbury, Lord High Treasurer, on the 30th March, 1610, appears to show that although the holding of Justice Seats was then unfrequent, one or more may have been

St. Pap. Dom.
Jas. I, vol. 53,
No. 50.

¹ The Earl was performing his duties as Deputy in Ireland.

held between that year and 1564. The writer suggests that the presentments of the Swainmotes should be yearly returned into the Exchequer, and be by Act of Parliament "made a little more fortefyed," observing that as they now lie idle till a Justice Seat be kept, (which is so rare that it is scarce once in twenty years) they have no execution at all; and he remarks that to help this by keeping yearly Justice Seats "wold charge his Ma^{tie} more than the pfit wold amount to."

Ch. For. Proc.
6 Car. 1,
No. 130.
Plac. For.
Exch. Treas.
of Rect. Co.
Bags, Essex,
No. 8.
22 Car. 2.
St. Pap. Dom.
Car. 1,
vol. 275,
No. 21.

There are records of three other Justice Seats, which were all held at Stratford Langthorne—one on the 21st September, 1631; another on the 1st October, 1634, and by adjournment on the 8th April, 1635, when the memorable scenes recorded in the last chapter, and in which Sir John Finch took a leading part, were enacted; and the last on 30th September, 1670, at which nothing more remarkable is to be noticed than the severity of some of the fines inflicted. One person who had twice offended by killing deer was fined in each case 30*l.*; but each fine was afterwards reduced to 10*l.* Another, submitting to be fined for a like offence committed by his son, had to pay 20*l.* And another for cutting oaks, valued at 20*s.*, was fined 10*l.*, which was afterwards reduced to 5*l.* Of inclosures and purprestures, some were arrented and others ordered to be thrown down.

Lyson's
Environs of
London, 4.
133.
Buxton's
Epp. For.

It has been said that Queen Elizabeth's Lodge at Chingford was designed and used for the holding of the lesser Forest Courts.¹ I can find no evidence of its being

¹ According to tradition, it was used by Queen Elizabeth as a lodge when she resorted to the Forest; and until given to the Conservators,

so used, and certainly none of the Courts of Justice Seat or Swainmote, of which records have been found, were held there.

In the reigns of James I. and of Elizabeth the Court of Attachments was held at Chigwell; and in and after 1713 its sittings were always "apud le King's Head in Chigwell." This was probably also "the house of Bibby," at Chigwell, to which, in 1630 and 1632, the bailiff of the Forest was directed to summon the constables to appear before the Forest officers, for the purpose of choosing the four men. In this quaint and pleasant inn may still be seen the room in which the Court of Attachments was held,¹ and also an arched recess in the cellar, made to hold the wine which served for the revels of the ministers of the Forest, after the graver labours of the day. One source from which that recess was filled is pointed out by the following entry in the rolls of the Court under the date of 3rd June, 1723:—
 "Ordered y^t every person y^t has the permission of a Lychense to shoot, hunt, &c. in y^e fforest of Waltham, before he be permitted to enter y^e same, shall pay to y^e officers at y^e Court when the same shall be entered 3 dozⁿ of Wine."

Camb. MS.
fos. 30, 32.

We have seen that the punishments by death and mutilation which in very early times were ordered to be

it was a Forest lodge belonging to the Crown. The roof appears to be of earlier date than the reign of Elizabeth, and the lodge may have been built for and used by earlier Sovereigns.

¹ It is now called the "Chester Room," after one of the principal characters in "Barnaby Rudge," in which Dickens introduces the house as "The Maypole Inn."

inflicted for offences against the Forest laws, were abolished by Richard I. and John. As the earliest Justice Seat of which there is a tolerably complete record was held in 5th Edward I., we have no information as to the perpetration of these barbarities in the Forest of Essex; and in truth there appears to be very little evidence beyond the general statement of the chroniclers, of their infliction anywhere by the Forest Courts.

Assise of
Woodstock,
§ 12.

The object of such punishments must have been to strike terror into offenders by sharp and quick retribution, for which the proceedings of the Courts were very ill adapted. Even in the time of Henry II., before the abolition of the penalties of death and mutilation, pledges were ordered to be taken for the first and second transgressions against the Forest laws; it was only on the third offence that the body of the offender was to be answerable; and it seems more likely that the cruelties of which complaints were made, and which were certainly authorized by the more ancient Forest laws, were committed by such tribunals as those of which the Saxon chronicler complains, than by Courts which moved in as leisurely a manner as the ancient Court of Chancery; first by presentment, then by "conviction," and lastly, after a period which might easily be three years or even longer, from the date of the original offence, by punishment.

But this system was admirably adapted to harass offenders; they were obliged to attend, first, before the Court of Attachments; then at the Swainmote, with their sureties, as often as the Forest ministers might

think fit to summon them ; and lastly, under pain of fine and imprisonment if absent, and with the certainty of fine, if not of imprisonment, when present at the Justice Seat.

And the fines in those days were very heavy, as may be seen in the case of Henry le Martre, who, in the reign of John, to be quit of the trespass of being found in the King's Forest with harriers, beating the King's foresters, and other Forest transgressions, paid sixty marks ; a sum which at the present day would amount to much more than 500*l*.

Madox, Hist.
of the Exche-
quer, i. 499.
9 John, 14b.

A pecuniary fine was the punishment commonly inflicted by the Forest Courts in later times. In the earlier Essex records, fines with the alternative of imprisonment, and imprisonment for contempt of, or disobedience to the orders of, the Court, or for offences by the officers of the Forest, are not unfrequently mentioned. And that many persons were imprisoned for offences against the Forest laws, appears from the grant by which James I. authorized the Earl of Oxford to build a gaol for their confinement ; though having regard to the rarity of Justice Seats, it is not clear by what authority they were confined in it.

22 May,
15 Jac. I,
pen. Lord
Mornington's
Trustees,
No. 566.

Although the Courts had cognizance only of offences committed within the Forests, they were armed with power to reach offenders who had escaped beyond their boundaries. The Assise of Clarendon directed, that if any sheriff notified to another sheriff that a man had fled from his county for (amongst other things) an offence against the King's Forests, he should take him.

Stubbs' Sel.
Ch. p. 134,
§ xvii.

Plac. For.
5 Ed. 1.

This power was exercised in Waltham Forest in 1277, when Thomas Thurkyld of Yarmouth, with his workmen, having made great destruction in one of the Forest woods, and having resisted the attempt of the King's forester to attach him, was compelled to come by the sheriff of Norfolk; and for resisting the attachment was adjudged to prison and fined 20s. by the pledges of Geoffry le Paumer of Walden, and Richard son of Martin of Colchester.

Exch. Treas.
of Rect. Plac.
For. 20 Ed. 1.

At the same Court, and at that held in 1292, divers persons were ordered to be imprisoned; one for a trespass of vert, and for not appearing when summoned until brought by the sheriff; another for a like offence in the forbidden month, and for not suffering himself to be attached; and a third for taking to his own use the profits of land seised into the King's hands for waste. Offenders who could not be found or did not come, were put in exigent, that is to say, proclaimed at the Sheriff's Court as a step preliminary to outlawry.

Letter of Earl
of Warwick,
sup. p. 43.

A more serious fate nearly overtook one Searle, a member of the Grand Jury at the Justice Seat of 1634, which was convened for the purpose of bringing back the Forests to their former illegal limits. For producing to the Grand Jury a record of King John (doubtless that by which he disafforested the county north of Stanstrete) Searle was transmitted to the Star Chamber, but was afterwards pardoned.

Pl. For. 22
Car. 2, Exch.
Treas. of
Rect. County
Bags, Essex,
No. 8.

In 1670 several persons were severely dealt with for contempt. A fine of 20*l.* imposed upon Lord Middlesex, probably for non-appearance, was discharged; but Abraham Church, having been fined a like sum for

contempt and misdemeanour in Court, was ordered to be committed until payment; while John Harris, for striking the crier in the face of the Court, was committed, and on the next day brought to the bar, fined 100*l.*, and committed to close imprisonment until he paid it.

The fines varied much in amount. In 1277, many Regarders were fined for concealment, generally each half a mark (6*s.* 8*d.*), one 40*d.*, and one 10*s.*; and townships each half a mark for not having fully come, *i.e.* for not sending the proper number of tenants, to the Court: and fines, varying from one to twenty marks, and sometimes imprisonment, were inflicted for unlawful hunting and receiving the stolen venison. But Reginald, the porter of Waltham Abbey, was only fined one mark for the latter offence. In another case, the Preceptor of the Templars of London and their bailiff being the offenders, the bailiff was ordered to be proclaimed; and Stephen de Ayeneste, a brother knight of Roger de Rolbynge the Preceptor, appearing as his attorney, made a fine of 20 marks, "whereof the Master of the Knights Templars in England will answer." Sometimes, as in the case of Thomas de Ardern, Knight, in 1292, it is noticed that the culprit "is pardoned for the King's soul, because he is poor."

At the Swainmote in 1632, the fines, although "affeered" by the Court at only half the sums written in the margin of the roll, were yet considerable. Amongst them were fines of 30*s.* for keeping an unexpeditated dog; 5*l.* for killing a fawn; 50 marks (33*l.* 6*s.* 8*d.*) for making a coney burrow, which was also ordered to be destroyed,

Pl. For.
5 Ed. 1.

Pl. For.
20 Ed. 1,
Treas. of Rect.
For. Rolls,
Essex, No. 2.

For. Proc.
Chy. Wal-
tham For.
Essex,
6 Car. 1,
Bun. 140.

and the burrows to be stopped; and 20*l.* for placing, on divers days, engines made of ropes, to take the game of the lord the King.

For. Proc.
Chy. Wal-
tham For.
Essex,
No. 140.
10 Car. 1.

In 1634 the fines were “affeered” by the Swainmote at the same rate. A forester, fined 5*l.* for killing a hind without warrant, appears to have been pardoned as to the fine, but to have been put out of his office; a husbandman had to pay 3*l.* 6*s.* 8*d.* for keeping four hare nets and two cross-bows with arrows; and an underforester 20*s.* for not affirming in Court a presentment which he had made at the Court of Attachments.

§ xxi.

Consuet. de
For. Ruff-
head, Stat.
App. p. 26.

Offences against vert were generally, as is stated to have been the practice at the date of Canute’s Code, punished by very small fines, or only presented, unless the offender was an officer of the Forest, or the offence was aggravated by violence or contempt of Court. For wasting a wood a fine of half a mark was fixed by an ancient Forest law. But in the 13th century, when the King had seized a wood for waste, no more than this sum was required to be paid both for the waste and for re-delivery of the wood.

Pl. For. Exch.
Treas. of
Rect. County
Bags, Essex,
No. 8.
22 Car. 2.

In 1670 the entries for offences against vert include a fine of 20*l.* for cutting forty trees, each of the value of 6*s.* 6*d.* A purpresture, by the enlargement of a mansion-house, cost 20*l.*, which the offender wisely elected to pay, rather than have his house pulled down, and be fined 5*l.* for the trespass.

Inclosures by Lord Grey of Werke, and the cutting of logs by the Earl of Manchester, although admitted, were not “convicted” by the Court, by reason of privilege of Parliament.

The difference in the purchasing power of money at various times must of course be considered, in judging of the burdens imposed by these fines. The amount of a fine inflicted in the 15th century ought, according to the estimate of Mr. Thorold Rogers, to be multiplied by twelve to ascertain its present value; and in the 13th and 14th centuries, when in Essex a hen was valued at 1*d.*, 100 eggs at 3*d.*, a cow at 6*s.* 8*d.*, a heifer at 2*s.*, and six sheep at 5*s.*, the difference would be much greater.

Six Centuries
of Work and
Wages, 1886,
p. 539.

Claim of
Henry de
Cokyn-ton,
1292.
Inquisitions,
46 Ed. 3,
48 Ed. 3.
Treas. of Rect.
Misc. For.
Rolls, B. 153,
Roll 44.

Some few fines were inflicted in the 18th century by the Court of Attachments, but these were almost always under the modern statutory powers vested in the Court; and there was no means of enforcing them except by application to the justices of the peace.

THE STEWARD OF THE FOREST COURTS.

The Court of Attachments and the Swainmote, had a steward, who in modern times was appointed by the Lord Warden. It was the duty of this officer to enter the proceedings of the Courts in the proper books, to enrol licences granted by the Chief Justice, and to swear in the Forest officers.¹

Memorial of
Earl Tylney,
Attach.
Roll, 17 Sept.
1777.

¹ In 1719 Sir George Cooke was appointed by Chief Justice the Earl of Tankerville to be Clerk of the Iter of the Forests south of Trent during his will and pleasure; and this is the only entry which I have found relating to this officer. It may be that the duties of Clerk at the Court of Justice Seat were at an earlier date performed by the Clerks

Attach. Roll,
13 Oct. 1719.

Sometimes these officers signed the rolls as Seneschals or Stewards of the Forest, which was the ancient title of the Lord Warden. This was done by Thomas Powle in 1590, and by John Winche on the Regard and Swainmote Rolls in 1630. Their much more famous successor, Oliver St. John, was content to sign himself "Steward" at the foot of the Swainmote roll in 1634.

For. Roll,
No. 90,
Harl. Rot.
C. C. 13.

Ch. For. Proc.
Waltham,
No. 140.
10 Car. I.

Hist. of the
Rebellion,
I. 324.

This stern Republican, who was afterwards Solicitor-General and Chief Justice of the Common Pleas, is described by Clarendon as a man reserved and of a dark and clouded countenance¹; very proud, and conversing with very few, and those men of his own humour and inclinations.

It was probably his experience at the Forest Swainmote, which suggested to him the shameful illustration by which he supported his argument in favour of the attainder of Strafford. "*Frustra legis auxilium invocat, qui in legem committit*," he is reported to have said; "he that would not have had others to have a Law, why should he have any himself? Why should not that be done to him, that himself would have done to others? It's true we give Law to Hares and Deers, because they be Beasts of Chase. It was never accounted either cruelty or foul play to knock Foxes and Wolves on the head, as they can be found, because these be Beasts of Prey. The

Rushworth,
8. 702.

Mat. for Hist. of reign of H. 7, vol. 2, p. 466 (M. R. Series). of Session, each of whom, as we have seen, was entitled to a fee deer. I have not found any note about the remuneration of the Clerk of the Swainmote in the Essex Forest. In Rockingham Forest each of the two clerks had 25s. per annum.

Diary, 12th October, 1662. ¹ Pepys, who met him after his retirement at Hinchinbroke, where he was staying with his daughter, Mrs. Bernard, says, "he looks now like a very plain, grave man."

Warrener sets traps for Polcats and other Vermine for preservation of the Warren.”

In 1641, Thomas Coke, one of the persons summoned for the perambulation of the Forest, is described as Steward of the Forest; but he was probably only Steward of the Courts.

Petty Bag
Office.
17 Car. 1.

In 1771, a dispute arose about the right of Earl Tylney to appoint the Steward of the Court of Attachments. John Price, appointed in 1713, and his successor, Eliab Harvey, had both been appointed by the Earl's father; and on the death of Harvey, in 1769, the Earl appointed John Coxe to be Steward, with the assent of the verderers. But when, on his resignation in 1770, Sir James Long, as attorney for Earl Tylney, appointed Peregrine Bertie to the office, the verderers refused to admit the appointment, as being exceptionable in matter of form and law. And in 1777 they repeated their refusal, and claimed the right of appointment for themselves.

Rolls, 8 June,
1770.
Rolls, 2 July,
1771.

Rolls, 17 Sept.
1777.

The Earl and Mr. Bertie then appealed to Sir Fletcher Norton, the Chief Justice of the Forests south of Trent, who, on the ground that the Earl and his predecessors were holders of the Bailiwick of all the Forest of Essex and keepers and stewards of the Forest, and that he and his father, in right of the said offices, had appointed the Steward of the Court, ratified the appointment of Mr. Bertie, and ordered that he should be admitted.

Rolls, 17 Sept.
1777.

The verderers did not acquiesce in this decision; the Courts were in consequence interrupted, and their powers paralysed; and there is a *hiatus* in the records between 29th July, 1771, and 17th September, 1777, and

another between 5th August, 1782, and 4th July, 1785; but in 1785 an entry was made on the rolls stating that no Courts had been legally held during the dispute, by reason of which the Forest, "as to deer and timber, have laid open to depredations to all who chose to rob or trespass on the same." And that Sir J. T. Long and the verderers present, "in great respect and regard to the said Sir James Tylney Long, agreed that upon the resignation of Mr. Bertie he should again be appointed," the entry being in the same words as were used at the appointment of Mr. Coxe by Earl Tylney; but it was to be without prejudice thereafter to the rights claimed by any of the parties; and all entries made by Mr. Bertie or by Mr. Hutchinson (the rival steward appointed by the verderers) in the books of the Court, were to be deemed null and void, and never used as records of the Court.

This practically ended the dispute; for on the death of Mr. Bertie, in 1787, the verderers assented to the appointment by Sir James Tylney Long of Mr. Skirrow; on his death, in 1794, to that of Mr. Bullock; and on his resignation to the appointment, in 1796, by Lady Catherine Tylney Long, guardian of the then infant Lord Warden, of Mr. Arnold.

The office was afterwards held by Mr. Tomlyns, appointed in 1812; by Mr. Rankin, appointed in 1830; and in 1831 by Mr. Cutts. Mr. J. C. Williams was steward in 1849, Mr. Withers in 1864, and Mr. F. M. Russell in 1871. Each of these officers was appointed by the Lord Warden to be Steward of the Court of Attachments, and of all other Courts of the Forest.

Rolls, 26 Sept.
1787.

Id. 28 July,
1794.

Id. 20 June,
1796.

Id. 10 Aug.
1812.

Id. 18 Sept.
1830.

Id. 9 July,
1831.

Driving
Warrant,
30 May, 1849.

Apptmt.
1864;

Apptmt.
7 July, 1871.

Pen. Ld.

Mornington's
Trustees.

CHAPTER III.

*Of the Justices and Ministers
of the Forest.*

"We command and strictly enjoin you to cause to come before us or
"our deputies in this behalf at Waltham Holy Cross . . . all the
"Foresters, Verderers, Regarders, Agisters, Woodward, and all other
"Ministers of the Forest,"¹

THE FOREST JUSTICES.



THE office of Master Forester and Justice of all
the Royal Forests in England had been filled by
Alan de Nevill from 1166 to 1175, and by his son of the
same name, who during part of that time appears to have
acted as his deputy; but on the death, in 1184, of
Thomas Fitzbernard, who had succeeded the elder
Nevill, Henry II. divided the Forests into two districts,
one of which included those on the north, and the other
those on the south of the Trent;² and appointed over

R. de Hoveden, Ben.
Abb. Walter
de Coventry,
An. 1184,
Foss, Judges
of Eng. 1. 284.

¹ Precept of the Forest Justices to the Custodian of the Forest of Waltham Holy Cross, 1489.

Duchy of
Lanc. Misc.
Records.

² But Hoveden in another place says that in 1189 Hugo de Nevilla was chief of the Justices of all the Forests in England. He was called *Cuuelu*.

Vol. 4. 63,
M. R. Series.

each of them four justiciaries—two of whom were knights, and two clerics—with two servants of his household, to be keepers of venison and vert over all other Forest officers, both of the King and of his barons and knights; and these were sent to hold Pleas of the Forest according to the Forest laws.

Annales
Monastici
(M.R. Series),
I. 251, An.
1235.

It is difficult to distinguish between the duties in these early times of the Forest justices and of the steward of the Forest, as to the custody of venison and vert, which Henry II. thus vested in the justiciaries. The titles of warden and keeper of the Forest were borne both by them and by the steward; and that the duties of the justices were not very clearly defined appears from the fact that a question arose in the 13th century whether the Chief Justice or the King's bailiffs¹ were to be answerable for vert and venison in the Forests. The decision of the King in Council was that the Chief Justices had the full custody of all the Forests, as well those which were the King's demesnes as others; and that the bailiffs of the King's demesnes had those things in the King's woods which belonged to their manors, such as nuts, honey, and pannage; and agistment by view of the agisters and foresters; and herbage for the King's cattle by the view and advice of the Chief Justice; or, for the greater convenience of the King, by the view of the verderers and foresters. And if there were woods which did not belong to any of the King's manors, then

Matth. Paris,
Hist. Ang.
vol. 3, p. 82
(M.R. Series).

¹ Geoffry de Langley, mentioned in a later page, was the King's bailiff as well as Justice of the Forests.

the Chief Justice should keep and absolutely be answerable for them.

It would probably be impossible to ascertain the names of all the ancient Justiciaries of the Forest; and of many of them nothing is recorded which relates particularly to the Forest of Essex.

It is not quite clear whether Aubrey de Ver, Earl of Oxford, was Justiciary and Master Forester, or Forester of Essex (which appears to have been the same office as that of steward) in the early years of John; when the King directed him to allow certain persons to hunt in the Forest, and to permit the Bishop of London to take a limited number of deer, and to make inclosures for his cattle. Later in the same reign, Hugh de Nevill and his son each held the office of *Prothoforestarius* or Master Forester; the Lord Hugh de Nevill being also called Justiciary of the Forests in 1228; and in the reign of Henry III., John de Nevill, having been accused by Robert de Passelewe of grave offences, was heavily fined and removed from his office.

Claus. Rot.
14 John
(R. C.), p. 129.
Id. 15 John,
pp. 140b, 146,
148.
Pat. Roll.
17 John
(1 R. C.),
p. 144, Matth.
Paris.
For. Proc.
Ch. De
Antiquis
Forestis,
No. 88.

Passelewe, who afterwards held it, was in 1233 one of the Assistant Keepers of the Royal Treasury, and by the counsel and judgment of him and of Stephen de Segrave his colleague, the Bishop of Winchester, is said to have managed the affairs of the whole kingdom. In 1234, Passelewe was also removed, but was restored in the following year on payment of 1,000 marks to the King.

Matth. Paris,
Hist. Angl.
vol. 2, pp. 353,
372, 376
(M. R. S.).

In 1244 he was Archdeacon of Lewes and Clerk and spiritual adviser of the King; and in anticipation of

Id. 497.
Chron. Maj.
Maj. (M. R.

Ser.), vol. 4,
pp. 400, 426,
427; vol. 6.
94.

Finch and his colleagues in the time of Charles I., he taught the King how to raise money by inquiring into and levying fines for encroachments upon the Royal Forests.

Id. Hist. Ang.
3. 63.

In 1249 he had received priest's orders, and he died in 1252 at Waltham. Matthew Paris had a very bad opinion of him. He describes him as wholly given to worldly matters, and says that though himself a richly beneficed cleric, he had not hesitated to pauperize many that the King by right or wrong might be enriched. He was buried under a splendid tomb at Waltham, and the chronicler spitefully observes that "his works do follow him."

Matth. Par.
Abbrev.
Chron. vol. 3,
p. 314
(M. R. S.).

Passelewe was succeeded in his place of Justice of the Forests by Geoffry de Langley, of whom the same chronicler says that that Passelewe had fostered him and raised him in the world: but that after the manner of the cuckoo, the nursling supplanted the nurse. Elsewhere he tells us that, as compared with his successor, Passelewe was thought to be very mild.

Plac. For.
5 Edw. I.

The Justice Seat for the Forest of Essex in 1277, was held before Roger de Clifford, Bartholomew de Columbariis, Geoffry de Piccheford, and Nicholas de Romes, who are styled "Justices to hear and determine the same Pleas," and not by the title used later "Justices of the Forest on this side Trent." After 1277, the practice was to appoint but one justice for the ordinary Forest duties, assigning judges of the Common Law Courts to assist him at the holding of the Courts of Justice Seat; the holder of the office of Chief Justice of the Forests being commonly, as was said by Coke, a man of greater dignity than knowledge of the laws of the Forest.

4th Inst. 375.

Although, therefore, the King's writ for the holding an inquisition as to the inclosure of Nasing Park was directed to Roger l'Estrange alone as Justice of the Forests on this side Trent, the Justice Seat of 1292 was held before him and Simon de Ellesworth and John de Crokesley, justices assigned to hear and determine the said pleas; who, however, in the opinion of Mr. Foss, were only Forest justices. In 1301, four justices, Ralph de Hingham, William Tressell, Stephen de Graveshend, and William de Simon, were assigned to make the perambulation of the Forest of Essex.

Ch. Inq. post
Mort. 13 Ed. 1.

Exch. Treas.
of Rect. Plac.
For.

Judges of
England.
Ch. Misc.
Roll, 27 to 29
Ed. 1, No. 113.

In 1323, Aylmer de Valence Earl of Pembroke, William La Zouche de Ashby, and William de Cleyden were appointed justices itinerant to hold Pleas of the Forest; and Phillip de Say to act with them; Henry Beaufytz being also associated for the "Forest" of Havering, which had been granted by Edward II. in dower to his Queen Isabella.

Plac. For.
17. Ed. 2.

In 1323-4, Roger l'Estrange held an inquisition in the Forest as Justice of the Forests on this side Trent.

Exch. Treas.
of Rect.
17 Ed. 2.

In 1333, Sir Robert de Ufford was Chief Justice or Warden of the Forests on this side Trent, and held inquisitions at Colchester, Chelmsford, and Stratford-at-Bowe, on one of which John de Laidham acted as his deputy.

7 Ed. 3, Pre-
sentments on
Inquisitions.

Treas. of Rect.
Misc. For.
Rolls, B. 153,
Roll 36.

In February, 1341-2, the warden was Sir Bartholomew de Burghersh, Thomas de Bourne being his deputy.

Id. B. 155,
Roll 17.

In 1344, William de Clynton, Earl of Huntingdon, was warden, and John de la Lee his deputy.

Id. B. 153,
Roll 19.

In 1362 and 1365, William de Wykeham was warden, and in the latter year Peter Attewode was his deputy.

Id. Roll 37.

Id. B. 155,
Roll 26.
Ch. Inq. post
Mort. 4, Rd. 2.

In 1368 John de Foxle was warden, and Thomas de Holland in 1379; Baldwin de Bereford being his deputy.

Duch. of
Lanc. Misc.
Records,
12 Aug. 1489.
And see
Campbell,
Mat. for Hist.
of Reign of
H. 7, I. 249.

During these fifty years and upwards, the titles of warden and deputy-warden of the Forests on this side Trent were alone used. But at the Justice Seat, which was held in 1489 at Waltham Holy Cross, letters patent were produced by which, in February, 1485-6, Henry VII. appointed John Ratclyff (Lord Fitzwalter¹) and Sir Reginald Bray² to the office of warden and chief justice and justices itinerant of the King's Forests, parks, chaces, and warrens on this side Trent, to hear and determine all manner of pleas of the Forest; and chief keepers and masters of the sport of all the premises. Richard Harpur was their deputy.

Duch. of
Lanc. Misc.
Rec. For. of
Waltham,
1489.

Their patent gave them these offices during the life of them and either of them, to be exercised by themselves or their deputy, with the fees, wages, profits, and emoluments from ancient times due, accustomed, or pertaining to the office, and the power of appointing all officers to the same office from ancient times due and accustomed. Although the King thus assumed a right to enable the Forest justices to appoint deputies, it was doubted whether the office, being judicial, could be deputed, and authority to appoint a deputy was therefore given by statute.

32 H. 8,
c. 35.

The Earl of Sussex was Chief Justice in 1558; but being unable, by reason of his duty as Deputy of Ireland, to attend in person at a Justice Seat intended to be held

¹ Afterwards executed as an adherent of Perkin Warbeck.

² The reputed architect of Henry VII.'s Chapel.

at Ilford on the 17th August in that year, he appointed seven deputies, viz. Sir Edward Walgrave, Sir William Petre, Sir Henry Tirrell, Serjeant Browne, the Solicitor-General, Mr. Barnars, and Mr. Powle, who were desired by Queen Mary to attend and execute the office. No records of this Court have, however, been found. Serjeant Browne was probably Anthony Browne, a native of Essex, who became owner of South Weald Hall. He was a judge of the Common Pleas in the time of Queen Elizabeth, who, in 1564, also directed him and others to act as deputies to the Earl of Sussex as Chief Justice of the Forest. After the Earl of Sussex, Robert Dudley, Earl of Leicester, added the office of Lord Chief Justice of the Forests south of Trent to his other numerous honours.

State Papers,
Dom. Mary,
vol. 13, No. 44.

Foss, Judges
of England.

State Pap.
Dom. Eliz.
vol. 36,
No. 20, 1564.

Ch. For. Proc.
Bundle 130,
m. 16.

In 1602, Charles, Earl of Nottingham, Lord Howard of Effingham, and Lord High Admiral of England, was Chief Justice of the Forests south of Trent. After him came the Earl of Pembroke, upon whose death Charles I., in 1630, placed the office in commission; the Earl of Manchester, Lord Newburgh, Sir Thomas Edmonds, and Sir Humfry May, being the commissioners; and Sir Thomas Richardson, Chief Justice of the King's Bench, and Sir Thomas Trevor, Baron of the Exchequer, being appointed, by special warrant of the King enrolled at the Justice Seat, to assist them.

Ch. For. Proc.
Bundle 130,
m. 16.
Camb. MS.

Ch. For. Proc.
6 Car. I,
No. 130.

In 1634, Henry Rich, Earl of Holland,¹ was Chief Justice, and was assisted by, amongst others, Justice Jones and Baron Trevor. Both these judges had given their opinions in favour of the right to levy ship money.

Letter of Earl
Warwick, St.
Pap. Dom.
Car. I,
vol. 275,
No. 21.
St. Trials, Har-
grave, vol. 1,
pp. 637, 663.

¹ Executed by the Republicans in 1649.

Scobell's
Acts, 22 Nov.
1653, 30 Aug.
1654, cap. 10,
1656.

During the Commonwealth the office appears to have been in suspense, all the Royal Forests having by an Act of the Long Parliament been vested in trustees for sale.

St. Pap. Dom.
Car. 2, Dec.
1670.

In 1670, Aubrey de Vere, Earl of Oxford, was Chief Justice, and Sir Thomas Fanshawe presided at the Justice Seat held on the 30th September in that year as his deputy, assisted by Sir John Vaughan, Chief Justice of the Common Pleas, Justice Wyld, and Baron Wyndham. James, Duke of Monmouth, was Chief Justice in 1675; and from 1701 to 1817 the office of Chief Justice of the Forests south of Trent was held by the following persons:—

Licence,
29 Dec. 1675.

1701. Lord Wharton.	1756. Earl of Breadalbane and Holland.
1714. Lord Abingdon.	1766. Lord Monsen.
1716. Earl of Tankerville.	1767. Earl Cornwallis.
1722. Lord Cornwallis.	1769. Sir Fletcher Norton, after- wards Lord Grantly.
1737. Earl of Jersey.	1789. Viscount Sydney.
1746. Earl of Halifax.	1800. Right Hon. Thomas Grenville.
1748. Duke of Leeds.	
1756. Lord Sandys.	

The Chief Justice presided at the Court of Justice Seat, and with the judges assigned to assist him, exercised the powers of the Court which are mentioned in the last chapter. He continued to be appointed long after the Court ceased to be held; and his duties appear to have then chiefly consisted in the granting of licences for sporting, for the cutting down of woods, and the inclosure of parts of the Forest wastes: in the former of which

branches of industry, and in the 18th century also in the others, they showed great activity.

Mr. Grenville, who died in 1821, was the last of the Chief Justices of the Forests south of Trent; the offices of Wardens, Chief Justices, and Justices in Eyre of all the King's Forests, Parks, and Warrens, North and South of Trent, having been abolished upon the terminations of the existing interests, by an Act passed in 1817; by which, and by later Acts, their powers and duties were vested in and ordered to be performed, at first by the First Commissioner of Woods, Forests, and Land Revenues, and afterwards in Epping Forest, by the Commissioners of Works and Public Buildings, without salary, fee, or emolument.

57 Geo. 3,
c. 61.
10 Geo. 4,
c. 50, s. 95.

29 & 30 Vict.
c. 62, s. 6.

The disastrous effect of this change in the government of the Royal Forests, as regards Epping Forest, will be shown in later chapters.

The Justices of the Forest were entitled by ancient custom to fee deer. To their deputy, four oaks and a buck were ordered to be delivered at the Justice Seat in 1489.

MS. Brit.
Mus.
Duch. of
Lanc. Misc.
Rec. Pl. For.
17 H. 7.

THE LORD WARDEN AND LIEUTENANT.

I have mentioned that the Justices of the Forest were anciently also called Wardens; but this title was afterwards specially appropriated to an important Forest

officer, who was sometimes called the Steward, sometimes the Custodian or Keeper, and in more modern times the Lord Warden. He held his office in fee, and had a deputy or sub-warden, who, later, had the title of Lieutenant of the Forest.

The family of Montefichet, by corruption, Munfichet, appear to have been the earliest recorded holders of the Stewardship; Richard, son of Gilbert Munfichet, having been appointed by Henry II. to be Forester of Essex in as ample a manner as any of his ancestors had held the same; and he had also the custody of the King's house of Havering, which office, until the year 1709, was always annexed to that of Steward. He was confirmed in the Stewardship in the 2nd, and died in the 5th year of King John.

Dugd. Baron.
i. 438, 439.

Id.

His son Richard was afterwards Steward; but it seems that he was not appointed immediately after his father's death; for it was not until the seventeenth year of John, that Hugh de Nevill was commanded to deliver to Richard de Munfichet the custody of the Forest of Essex with the appurtenances, which the King had restored to him as his right.

Pat. Roll, 17
John, R. C.
p. 144.

Matth. Paris,
Hist. Angl.
vol. 2, p. 212,
(1217).

An Inspeci-
mus of the
grant is in
Pat. Roll,
26 Hen. 6.

Richard de Munfichet was one of the rebellious barons who were taken prisoners at the battle of Lincoln, and he was deprived of his stewardship by the judgment of the Forest Court of which Robert Passelewe was then Justice; but upon payment of a fine, in 1252 (36 Hen. III.), was restored by the King to the "bailiwick of the Forest in fee." An autotype copy of the original re-grant to him of the office, in the possession of the

trustees of the late Lord Mornington, forms the frontispiece of this volume.¹ Munfichet was a landholder in the Forest, being owner of an estate called Le Frith, in Walthamstow; and in 1253 he was licensed by the King to inclose a wood and to make assarts in Theydon.

Ch. Pat. Roll,
37 H. 3.

The grant of 1252 empowered him to appoint and remove all foresters and bailiffs of the Forest, in manner as he and his ancestors had been theretofore accustomed to do.

This right was of great pecuniary value, sums of

¹ The grant runs as follows in English:—"Henry, by the grace of God King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou, to the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Justices, Foresters, Sheriffs, Reeves, Ministers, and all his Bailiffs and faithful people, greeting: Know ye that for a fine which our trusty and beloved Richard de Munfichet hath made to us, we have restored to him the Bailiwick of all our Forest of Essex of which the same Richard, at the time when Robert Passlewe was Justice of our Forest, was deprived by the Judgment of our Court. To have and to hold of us and of our heirs to the same Richard and his heirs for ever, together with the custody of our houses and our Park of Haveringe, as fully and entirely with the appurtenances and liberties to that Bailiwick pertaining, as the same Richard more beneficially and freely held the same before the aforesaid Judgment against him. And we do grant to the said Richard for us and our heirs, that he and his heirs may for ever at their pleasure appoint and remove all Foresters and Bailiffs of the same Forest, in manner as he and his ancestors have been heretofore accustomed to do. These being witnesses—Richard de Clare, Earl of Gloucester and Hertford; Roger le Bigod, Earl of Norfolk, and Marshal of England; William de Valence, our brother; William de Fortibus, Earl of Albemarle; John Mansell, Provost of Beverley; Master William de Kilkenny, Archdeacon of Coventry; Ralph, son of Nicholas; Bertram de Orwill; John de Besinton; Robert Walerand; Reginald de Moun (Mohun); Robert le Norreys; Imbert Pugeys; and others. Given under our hand at Westminster the 24th October in the 36th year of our reign."

Note that he is not called "Earl Marshal;" see Selden's Tit. of Honor, p. 567.

Rep. of Sel.
Com. 1863,
Evidence,
p. 71.

from 300*l.* to 500*l.* having in modern times been often paid to the Lord Warden for the nomination to the office of Master Keeper.

MS. Harl.
No. 391,
Regist. Cart.
Abbatie de
Waltham.

Ch. Pat. Roll,
46 H. 3.
Plac. For.
Treasury of
Receipt,
Forest Rolls,
Essex, No. 2,
1292.

In a grant made by Henry III. to the Abbey of Waltham, in 1257, Munfichet is styled Warden of the Forest of Essex, and he then had Hugh de Dyne for his deputy. But in 1261 he is again called Steward of the Forest. He was also Sheriff of Essex, and had the custody of the Castle of Colchester; and it is recorded that while holding these offices, with the Stewardship of the Forest, he appropriated to himself of the issues of the bailiwick of Kingswood and Alrefen, rendered by Symon Norman, the riding forester of that bailiwick, 11*s.* 8*d.* yearly for rent certain, and 40 hens yearly and 500 eggs, each hen being valued at 1*d.* and each 100 eggs at 3*d.*¹ These profits were retained by Munfichet after he gave up the county (that is the shrievalty), and until he gave up the Stewardship to Thomas de Clare; and De Clare retained the payments until he gave up the office of Riding Forester of the bailiwick of Alrefen and Kingswood to Ralph le Mareschall, who received them for twenty years.

14 May,
51 H. 3, orig.
pen. Ld.
Mornington's
Trustees,
No. 561.

Ch. Inq. post
Mort. 13 Ed. 1
(1285).
Pl. For.
20 Ed. 1.

Cotton Roll
xiii. 5.

The grant by which the Stewardship was given up by Munfichet to Thomas de Clare was confirmed by Henry III. in 1267.

In 1285 Henry de Cokyntone was Steward for life by grant from De Clare. And in 1292 the Stewardship

¹ Entries at a Court, probably of Justice Seat, held in 1250, record the claim of the Constable of Colchester Castle to 40 hens at Christmas, and 500 eggs at Easter, and to cheminage and other payments.

was held by Nicholas Eyserevas, whose sub-steward, William de Sturtt, was committed to prison for taking an oak in the wood of Wanstead when it was in the King's hands for new waste; and for permitting the bailiff of Eleanor d'Echalers, the lady of the manor, to sell heath in the wood.

The reversion of the office appears to have passed to Gilbert, the son of Thomas de Clare, in 15 Ed. I. (1287), and from him to his brother Richard in 1 Ed. II. (1307). Richard's son died in 14 Ed. II. (1321) without issue, leaving his two paternal aunts, Maud, the wife of Sir Robert de Wells, and Margaret, the wife of Bartholomew de Vadelsmere, his co-heiresses.

In 1323 Sir Robert de Wells had one part of the Wardenship as the inheritance of his wife; and in 1338 Giles, who was probably the son of Margaret de Vadelsmere, granted it to William Carleton for life, the grant being confirmed by Edward III. in the same year.

On a partition the office became vested in Maud or Matilda, the wife of John de Veer, 7th Earl of Oxford, and sister and heiress of Giles de Vadelsmere.

In 1342 Alexander de Betoigne was Steward; and in 1360 Matilda, the widow of John "de Veer,"¹ Earl of Oxford, granted the office to Aubrey de Veer for his life under a patent by Edward III. Aubrey, the 10th Earl of Oxford, is described as Warden in 1365, and

¹ In the documents relating to this family the name is written "de Veer" down to 1604; and the title "Oxenford" is used to 1629, these being the dates of the latest original family documents to which I have had access. In the Close Rolls, temp. John, the name is "de Ver."

Exch. Treas.
of Rect.
20 Ed. 1.

Ogborne's
Hist. of Essex,
p. 169.

Pl. For.
17 Ed. 2.
12 July, 12
Ed. 3, orig.
pen. l.d.
Mornington's
Trustees,
No. 562.

Ogborne, 169.
Burke, Ext.
Peer.

Ch. Inq.
post Mort.
16 Ed. 3.
Pat. Roll
same year,
part. 3, m. 11.
Treas. of
Rect. Misc.
For. Rolls,
B. 155,
Roll 17.
12 July,
34 Ed. 3.
Lord Morn-
ington's
Trustees,
No. 563.

Inq. at
Barking,
9 Ed. 3;
at Hatfield
Regis,
43 Ed. 3.

Morant.
1—58.

Copy pen.
Lord Morn-
ington's
Trustees,
No. 564.

Exch. Treas.
of Rect.
12 Hen. 8.
L. R. Com.
1793, No. ix.

30 Dec. 1563.
Lansdowne
MSS. 6,
No. 47.

For. of
Waltham,
Bodl. Lib.
Attachment
Roll, 1590.
For. Roll,
No. 90
(Harl. Roll,
C. C. 13).

as Steward in 1369, when William Langrich was his deputy.

John de Veer, the 13th Earl, having been deprived of his estates during the Lancastrian wars, the custody of the Forest was given by Edward IV. in 1475 to Sir Thomas Montgomery; and in 1484 to Robert Brakenbury. In 1485 John de Veer was restored to his estates and to the office. In the writ for the Justice Seat held in 1489, he is styled Custodian of the Forest; and in a grant made by James I. in 1603 it is stated that he held the office in 4th Henry VIII. (1513).

Sir James Blount was lieutenant in 1489.

The Earl of Oxford afterwards granted to the King for life, power to appoint to the offices of Steward, of one Riding Forester, and of three yeomen foresters, in the three bailiwicks of the Forest; and the office of Steward or Warden, notwithstanding the limited terms of the grant, remained in the gift of the Crown till the time of James I.

At some time between the years 1537 and 1547, Richard Rich, afterwards Lord Chancellor, and the grandfather of the Earls of Warwick and Holland, was Lieutenant (or, as he wrote it, "lieftunte") of the Forest, as appears by his letter from his "poor house at Lees"¹ to Sir William Cecil, asking for leave to fell and inclose the "Great and Little Shrobetts."

Thomas Powle, a master keeper in 1590, was Steward of the Forest in 1594.

By the grant of 1603 mentioned above, the Steward-

¹ Leighs Priory, in Essex, of which he had obtained a grant.

ship, and the offices held with it, were re-granted in fee to Edward, the 20th Earl of Oxford, as the male heir of Earl John, who held them in 1513; and in whose family they were stated to have been from time immemorial.

Sir Thomas Edmondes, treasurer of the King's household, was at this time Sub-steward under the title of Lieutenant of the Forest.

For. Proc.
Waltham.

Earl Edward, on the 18th June, 1604, granted the Wardenship to his very good and special friends, his "sonne-in-law, Francis, Lord Norris, and his good cossin, Sir Francis Veer," for eleven years.

Orig. grant,
2 Jas. I
(pen. Collyer
Bristow,
No. 565).

Henry de Veer, the 21st Earl, was warden in 1617; and in 1621 he granted to Sir Thomas Edmonds, then Lieutenant of the Forest, power to execute the office of Warden during the Earl's absence beyond seas. He afterwards granted the office for life to John Wright.

Letters pat.
for gaol,
22 May,
15 Jas. I,
pen. Lord
M.'s Trustees,
No. 566.

In 1627, the widow of the Earl, and the Earl of Exeter (his trustees) sold the offices to Robert, Earl of Lindsey, Great Chamberlain of England, for 1,500*l.*, and for the further sum of 2,000*l.* paid to Robert, then Earl of Oxford. And in the following year the Dowager Countess of Oxford conveyed the herbage, pannage, and agistment of Havering park to Sir George Manners and Sir Robert Cotton, as trustees for the Earl of Lindsey. And thus the Wardenship of the Forest, and the custody of Havering manor, house, and park, finally passed from the De Veers, who, except during some short intervals, had held them for nearly 300 years.

Ch. For. Proc.
6 Car. I,
No. 130,
memb. 3.
Grant 28 May,
3 Car. I,
pen. Lord
M.'s Trustees,
No. 568.
Grant 12 June,
3 Car. I,
pen. Lord M.'s
Trustees,
No. 569.

10 Nov.
4 Car. I, pen.
Lord M.'s
Trustees,
No. 571.

Robert, the 1st Earl of Lindsey (who fell at the battle of Edgehill), was Keeper and Steward in fee at the Justice Seat of 1630; and at the Swainmote of 1631;

John Wright being, however, returned at the Justice Seat as Steward for his life by grant of Henry, late Earl of Oxford.

St. Pap.
Domestic,
Nov. 1640.
Warrant
for deer,
Aug. 1666.
Justice Seat,
1670.
Pl. For.
22 Car. 2.

Sir Thomas Edmondes, at these dates, still held the office of Lieutenant, in which he was succeeded by Sir William Hicks, who held it between 1640 and 1670. In the latter year he was fined 50*l.* for neglecting to publish to the keepers, a warrant from the Chief Justice in Eyre for a restraint upon the killing of the deer in the Forest.¹

23 Nov. 1633.
Orig. pen.
Trustees
of Lord
Mornington,
Nos. 572, 573,
574.

2 June, 1634.
Id. Nos. 575,
576.

29 Sept. 1634
(5 deeds), Nos.
577—581.

5 Dec. 1634,
No. 582.

Indenture
30 May, 1709
(penes Lord

In 1633 the Earl of Lindsey granted the offices to his son and heir apparent, Sir Montagu Bertie, Lord Willoughby, in consideration of the payment by him of debts of the Earl amounting to 6,642*l.* Lord Willoughby shortly after mortgaged them for 3,000*l.*, but discharged the mortgage in the same year.

On the death of Lord Willoughby, who had succeeded to the Earldom, he was followed in the Wardenship by his son, Earl Robert; whose son Robert, Marquis of Lindsey, in 1709, for the sum of 5,000*l.*, conveyed the

Diary II and
13 Sept. 1665.

¹ Pepys describes Sir William Hicks' seat at Ruckholts, where (as Lord Braybrooke tells us) he entertained King Charles after hunting, as a good seat, with a fair grove of trees by it, and the remains of a good garden; but let to run to ruin, and both house and everything in and about it ill-furnished, and miserably looked after, there being not so much as a latch to the dining-room door; and in much discontent with the bad dinner given to him and his friends by the Lieutenant (to which they had invited themselves), Pepys accuses him of all kinds of meanness. Sir William Hicks, who was an ancestor of Sir Michael Edward Hicks-Beach, lately Chancellor of the Exchequer and Secretary for Ireland, died in 1680. In his monument in Leyton Church he is represented in a recumbent position, holding a baton in his hand as Lieutenant of Waltham Forest.

Lyson's *Env.*
of London,
vol. 4, p. 166.

Wardenship alone, without the right of custody of the manor, King's house, and park of Havering, to Sir Richard Child; to whom the Dowager Countess of Lindsey, in the following year, released her right of dower on payment of the further sum of 1,600*l*. Mornington's Trustees, No. 589).
Indenture 16 May, 1710.
Id. No. 592.

Sir Richard Child, afterwards Earl of Tylney, was the son of Sir Josiah Child, the builder of Wanstead House; of which Evelyn in his Diary notes how, in 1683, he went to see Sir Josiah Child's prodigious cost in planting walnut trees about his seat, and making fish-ponds many miles in circuit in Epping Forest in a barren spot.¹ Vol. 2, p. 182.

In 1709, William Harvey held the Lieutenancy of the Forest for his life; and at the Court of Attachments held on 11th February, 1719-20, the Lieutenant was for the first time included in the list of officers at the head of the roll of that Court, and was always afterwards named there. Sched. to Conveyance of 30 May, 1709.

Mr. Harvey held the office until November, 1731, and Sir Richard Child, then Earl of Tylney, is entered as Lieutenant from that time until June, 1733; when his son, Viscount Castlemain, was sworn as Lieutenant in the room of William Harvey, deceased. Rolls, 29 Nov. 1731.
Rolls, 14 June, 22 Nov. 1733.

After November, 1733, no Lieutenant is named on the rolls until May, 1743, when Lord Castlemain was again sworn as Lieutenant. Rolls, 7 May, 1743.

¹ According to Mr. Johnston's note in Mr. Buxton's Guide to the Forest, the trees were planted under Evelyn's direction. Evelyn certainly does not say so; he seems to have made only a casual visit to the place.

Attachment
Roll, 23 Dec.
1749.
Grant of office
of Master
Keeper to
Salwey,
9 June, 1750
(pen. Lord
Mornington's
Trustees).
Attachment
Roll, 8 July,
1754.

On the death of Richard Earl Tylney in 1749, John Lord Castlemain succeeded to the Earldom, and to the office of Warden; and the office of Lieutenant remained vacant until 1754, when the Earl by deed appointed Smart Lethieullier of Aldersbrook to be Lieutenant during his pleasure; and although within the last twenty-one years two of his predecessors had been sworn into the office, an entry appears on the rolls that Mr. Lethieullier tendered himself to take the oath, "but there not appearing to be any oath annexed to his office, he was not sworn." According to the memoranda relating to Waltham Forest, the oath was the same as that taken by a forester, except that for the words "office of a forester" in the first clause, the office of Deputy Warden or Lieutenant was substituted.

Id. 27 Sept.
1761.
Id. 19 Oct.
1801.

In 1761, Earl Tylney appointed John Henniker of Newton Hall, afterwards Sir John Henniker, Bart., and later Lord Henniker, to be Lieutenant during his life, he covenanting to support and maintain the vert and venison and all the privileges of the Forest, and of the Earl of Tylney as Chief Warden.

Lord Henniker retained the office till his death, and was succeeded in 1803 by Mr. Samuel Bosanquet, who is not stated to have been sworn. He died in 1806, and Colonel John Bullock was sworn Lieutenant in 1807. The office was vacant from 1810 to 1811, in which year Sir William Smijth, Bart., was appointed. He died in 1817; but it was not until 1830 that a record appears of the appointment in his place of Admiral the Right Hon. Sir George Cockburn, with whom worthily ended the long line of the Sub-stewards or Lieutenants of Waltham Forest.

Rolls, 13 June,
1803.
Id. 28 July,
1806.
Id. 15 June,
1807.
Id. 10 August,
1812.
Id. 22 Sept.
1817.
Id. 18 Sept.
1830.

In the meantime John, the 2nd Earl Tylney, who died in 1784, devised the office of Hereditary Lord Warden, as it was now called, to his nephew, Sir James Tylney Long, for life, with remainders over in tail; and on the death of Sir J. T. Long, in 1794, he was succeeded by his son of the same names; during whose life (he being a minor) Lady Catherine Tylney Long, his mother and testamentary guardian, exercised his powers. He died in 1805, and was succeeded by his sister, Catherine Tylney Long, also a minor; of whom, in 1812, it is recorded in the rolls of the Court of Attachments, that “since the last Court Miss Catherine Tylney Long was married to William Wellesley Pole, Jun., Esq., and they took the names of William Pole Tylney Long Wellesley¹ and Catherine Tylney Long Wellesley; and thereupon the said William Pole Tylney Long Wellesley and Catherine Tylney Long Wellesley ‘are warden’ of the Forest in right of the said Catherine Tylney Long Wellesley, and Mr. Long Wellesley took his seat at this Court accordingly.”

Mem. of Sir J. T. Long to Treasury and report, 23 Jan. 1787 (Lord Morington's Trustees, Nos. 593, 594). Attachment Roll, 4 July, 1785. Claim of Viscount Wellesley, 1850. Attachment Roll, 6 July, 1795. *Id.* 20 June, 1796. *Id.* 9 July, 1806. *Id.* 10 August, 1812.

Except in a very few instances, when during the minorities of the two last wardens, the Courts of Attachments had been held before the Lieutenant of the Forest and one or two verderers; and on two occasions during the same period, when it was irregularly held before a Riding forester and a Master keeper only, some, or, very rarely, one alone of the Verderers, had presided at all

Attachment Rolls, 25 July, 1803; 10 June and 29 July, 1805; 27 June and 8 August, 1808; 19 June, 1809. 18 Sept. 1809; 27 May, 1811.

¹ Horace Smith, for the sake of his metre, took a great liberty with the Lord Warden's name in the line

“Long may Long Tylney Wellesley Long Pole live.”

Coke, 4th Inst.
289, 282.
Manwood,
Ch. 22.

the Courts of which the records are extant; and this was strictly in accordance with the Forest law, which makes the verderers the judges of this Court.

Attachment
Rolls, 18 May,
1745; 11
Feb. 1719-20.

The name of the Warden of the Forest did not appear at all at the head of the Attachment Roll, among the officers of the Forest, until the year 1745; nor that of the Lieutenant until 1719-20. But from the time of Mr. Long Wellesley's accession, he seems to have assumed a right to preside at the Court, and to take precedence of the Verderers; and he caused the names of himself and his wife to be placed at the top of the roll, the other officers being entered in the following order:—Verderers, Lieutenant, Riding forester, Purlieu ranger, Master and Underkeepers, Under purlieu ranger, Woodward, and Beadle.

Attachment
Rolls, 18 Sept.
1830.

Mr. Long Wellesley continued to preside from 1812 to 1817, generally with several, but sometimes with only one, of the verderers. The Courts then ceased for thirteen years, and when they recommenced in September, 1830, we find him again presiding with one or more of the verderers (Mr. Henry John Conyers, who was one of them, being usually present) until the year 1832. The Courts then again ceased for eleven years, and from the year 1843, when they were resumed, until the last Court entered on the rolls, which was held on 6th December 1848, the Warden did not appear, and the Court was held before the Verderers only.

Original in
office of
Woods.

But at a Court held on 15th January, 1849, of which a note has been preserved, the Warden, then Earl of Mornington, not only insisted upon his right to preside, but declared that the Verderers were only the jury

to take care of the rights of the freeholders; and that, although he was ready to receive any suggestions from the verderers, he reserved to himself the right to decide any question that might come before the Court.

This claim he made by way of protest against any interference under the Act of 10 George IV., c. 50 (which empowered the verderers to call the Court, and to punish offences), with the supposed rights of the Warden. It seems clear, however, that the contention of the Warden was unfounded.

The Lord Warden, supported by Mr. Conyers, then required the Steward of the Court to deliver up the Court books, which he refused to do without the joint authority of the Warden and the verderers, (it being the duty of the latter to keep them,) and payment of his account; alleging that he had never been paid a farthing by the office of Woods and Forests. Finally the Warden and the Verderers agreed that the former should preside as Lord Warden for that day, that the opinion of counsel should be taken, and that another Court should be held as soon as possible. The usual business was then transacted, but no further Courts were held at that time, and the pretensions of the Warden had no practical result.

On the death of the Earl of Mornington in 1857, he was succeeded in his title and in the office of Warden by his son, William Richard Arthur, who, on the disafforestation of Hainault Forest in 1851, received 5,250*l.* as compensation for the loss of his office in that part of the Forest. He died in 1863, having by his will devised

Rep. of Sel.
Com. 1863,
Evidence,
p. 71.

the office of Warden of the remainder of the Forest to Mr. Richard Bulkeley Glasse, Q.C., and Mr. Andrew Alfred Collyer Bristow, as trustees; and they held it when it was finally abolished on the disafforestation of Epping Forest in 1878, and were awarded 300*l.* by the arbitrator as compensation.

Rep. of Ep.
For. Com. of
Corp. of
London, 1883,
p. 19.

Besides the right of appointing foresters and bailiffs, the Steward was anciently entitled to other valuable privileges. Henry de Cokyntone, who became Steward in or before 1285, in succession to Thomas de Clare, claimed in 1292 to have 20 marks sterling pertaining to his bailiwick from the farm of his foresters; that is to say, of the forester of the hundred of Bekentre 5 marks; of the forester in the hundreds of Chafford and Bardstaple 40*s.* (*i.e.*, 3 marks); of the forester in the hundred of Chelmsford and Daneseye 40*s.*; of the forester in the hundred of Wyham (Witham) 40*s.*; of the forester in the hundred of Herlawe and Dunmawe 40*s.*; of the forester in the hundred of Aungre 40*s.*; and the power of appointing all the foresters in these hundreds, which were included in the Forest at the date of this claim.

Pl. For.
20 Ed. 1,
Exch. Treas.
of Rect.

De Cokyntone also claimed the custody of the King's houses, park, and outlying woods in Havering; and cheminage in the bailiwick of Havering; viz., from every cart carrying timber, brushwood, bark, and coal (charcoal), 4*d.* yearly, except during the interval between the Feasts of St. Michael and St. Martin which belonged to the farm of the said town. Also windfallen wood, and bark of timber trees in the park and wood, except timber and windfallen wood in the outlying wood, between the

same feast days, which pertained to the farm of the said town.

The rights of the Warden were somewhat differently described by Edward de Veer, Earl of Oxford, who held the office in 1604. He claimed the right to substitute a Lieutenant, and to appoint and remove one Riding forester and three Yeomen foresters; a right to all waifs and strays; to all deerfallen wood or browsing wood;¹ to all amerciaments arising from the Swainmote and other Courts called Wood Courts,² except those for venison and bodies of oaks; to receive a penny of each shilling from the sale of every covert and hedgerow; from every wood sold within the Forest, the second best oak, and from the buyer and seller of every such wood, one bow and one broad arrow; and one penny of every shilling on the sale of the wood: the oak and the broad arrow by delivery to the Lieutenant of the Forest, and the penny of every shilling by the hands of the Forester of the bailiwick in which the covert, hedgerow, or wood happened to be; and also in right of his office the custody of the manor, house, and park of Havering. All which, he added, had rightfully descended to him from his ancestors "Erles of Oxenford."

Demise
18 June, 1604.
2 Jas. 1
(Trustees
of Lord
Morington,
No. 565).

¹ Wood cut for the shelter of the deer. According to the Ancyent Forest Lawes the browse wood was to be "no bigger than an inch boure, nor heavier than a deere may turne upp wth his horne." But according to Articles of Instruction dated in the same year as this claim, every keeper was entitled to a certain stinted allotment of "browst" or browse wood for "his fewell," and the rest was to be sold for his Majesty.

Letters of
Privy Seal,
17 Feby.
13 Jas 1.

² The Court of Attachments.

Claim No. 41. These claims were repeated in almost the same language by his successor the Earl of Lindsey in 1634; and he in addition claimed *cheminage* within the Forest yearly during fifteen days before and fifteen days after the Nativity of St. John the Baptist (this being the fence month), *i.e.*, of every carriage 4*d.*, and of every waggon, cart, or dray 2*d.*, led or going through the street of Stratford Langthorne within the Forest; and for every load of hoops 4*d.*, led or going through the said street; and for every pack of wool in a carriage or cart or on horseback 4*d.*; and for every half pack of wool 2*d.* carried as aforesaid, and going through the said street; and for every horse burdened with any load tied with a "wantye"¹ led or going through the said street 2*d.* He also claimed a gaol or prison in Stratford Langthorne for the safe custody of trespassers or malefactors arrested or committed to prison for crimes against the Forest laws, by the justices or other ministers of the Forest; and power to appoint a gaoler, who was to receive the same fees, wages, allowances, and perquisites, as the gaoler of the county gaol received for prisoners committed for any cause except treason or felony.

22 May,
15 Jas. I (orig.
pen. Lord
Mornington's
Trustees,
No. 566).

This part of the claim was founded upon a grant made by James I. in 1617, empowering Henry de Veer, Earl of Oxford, then Warden, to erect a prison for offenders against the Forest laws, who (says the charter) for want of such a prison within the Forest were daily encouraged and emboldened to commit many insolent

¹ A leather tye or rope.—HALLIWELL.

and insufferable offences within the Forest, as well by hunting and killing our deer as otherwise.

The thrifty King, however, took care to stipulate that the Earl should provide an able and sufficient keeper of the prison "without demand of any fee, stipend, or allowance from us, our heires or successors, for the same."

This prison still existed in 1793; but has since been taken down. 15th Rep. of
L. R. Ccm.
1793.

In the time of Henry VIII. both the Warden and the Lieutenant had fee deer.

At the Justice Seat in 1489 the latter was ordered to have one male deer; but in 1793 Sir John Henniker claimed one buck and one doe annually from each walk in the Forest, which was no doubt in excess of his right; as was also the claim of Sir James Tylney Long, the Lord Warden, to red and fallow deer without stint. Sir J. T. Long also claimed, and was shown to have had for some years, 100 loads, or 10,000, of faggots cut yearly in the King's wood (Hainault); but it was considered by the Commissioners of Land Revenues that this was probably an usurpation of the fee wood of the keepers, as it is not mentioned in any of the Wardens' claims, or in the order of the Court of Exchequer relating to the fee wood of the Forest officers in the time of Queen Elizabeth. Id. App.
No. 12. Id. No. 19.

THE VERDERERS.

Manwood,
ch. 21.

The Verderers (*viridarii*) were judicial officers, and have been thought to be the successors of the four chief men (*primarii*) who were appointed by Canute's Forest law to do justice in the Royal Forests.

There were certainly four verderers in Waltham Forest from the 15th century; and this is said by Coke to be the proper number; but as there were always more before that time, the identity, so far as it depends upon their number, cannot be shown, nor do I find that the Waltham Forest verderers ever claimed to be so descended.

Cotton
Roll xiii. 5.

The first mention which I have found of the Verderers of Waltham Forest is at the Court held in 1250, when eighteen verderers are named; *viz.*, two for the hundreds of Tendring and Lexinden, two for Thurstapele and Wensetri, three for Wyham and Felstede, four for Chelmersford and Danesei (two for each), two for Berdestaple and Chafford, one for Chelmersford in the parts of Writele, two for Aungre, and two for the half hundred of Wantham.

Plac. For.
5 Ed. 1.

At the Justice Seat of 1277, we have the names of three verderers for the half hundreds of Lexden, Winstree, and Thurstable, two for the hundred of Ongar, and two for the hundred of Wantham.

Inq. post
Mort. 13 Ed. 1.

Again, at an inquisition made at the Cross of

Husse in 1285, fifteen verderers of Ongar and other Regards are named.

In 1292 and 1323, there were also two for each of the hundreds of Waltham and Ongar alone; but in and after 1489, the number for the whole Forest was only four. It seems probable that the number of verderers was so fixed soon after the date of the Forest ordinance of 34 Ed. I. (1306), the provision of which, that the officers "shall be put in as heretofore it hath been used to be, except the verderers, who shall be ordained by election and by our writ," shows that the verderers had not theretofore been so chosen.

The writ was directed to the sheriff of the county, who, in obedience to it, caused a verderer to be elected by the freeholders of the county, and sent the writ, with his return of the result of the election, to the Petty Bag Office in Chancery, where it was filed among the records of that Court.¹

A certificate of the writ and return was then made by a clerk of the Petty Bag Office, and was read at, and entered on, the records of the Forest Court of Attachments; after which, and down to 1792, the verderer was sworn before that Court. But in 1812, Mr. Lockwood,

¹ The cost of election was sometimes 500*l.* or 600*l.*; but on the occasion of a contest between Colonel Burgoyne and Mr. Bosanquet, they kept the poll open for fourteen days, and brought people from all parts of the county, at a cost to Mr. Bosanquet of 7,000*l.*, and to Colonel Burgoyne of 10,000*l.* "I believe it was the point of honour which caused the contest," said Colonel Palmer. The election referred to was, I suppose, that of 1798, when Montagu Burgoyne was elected a verderer in the room of Richard Lockwood.

Rep. of Sel.
Com. 1863,
Evidence,
p. 22.
Attachment
Rolls, 2 July,
1793.

Attachment
Roll, 10 Aug.
1812.

who was chosen verderer on the appointment of Sir W. Smijth to the Lieutenancy of the Forest, was sworn by the sheriff.

Memda. de
Foresta.

Manwood,
ch. 21.
4 Inst. 292.
Book of Oaths,
1649, fo. 297.

A verderer was sworn truly to serve the King in the office of verderer in the Forest of Waltham; to the uttermost of his power and knowledge to do for the profit of the King so far as it appertained to him to do; to preserve and maintain the ancient rights and franchises of the Crown; not to conceal from his Majesty any rights or privileges, nor any offence either in vert or venison, nor any other thing; not to withdraw or abridge any default, but to endeavour to manifest and redress the same; and if he could not, then to give knowledge thereof to the King or his Justice of the Forest; to deal indifferently with all the King's liege people; to execute the laws and assises of the Forest, and do equal right and justice as well to the poor as to the rich in what appertained to his office, and not to oppress any person by colour thereof for any reward, favour, or malice.

Manwood,
ch. 21.

The verderers were to be esquires or gentlemen of good account, ability, and living, wise and discreet men, and well learned in the laws of the Forest. They were the judges of the Court of Attachments, and presided at the Swainmote, and had the custody of the rolls of the Forest Courts. When they took an inquisition one sealed and another kept the roll, and so from one Forest Court to another. On the coming of the justices all the ministers presented the roll, or were fined.

Cons. et Ass.
de For. Ruff-
head, St.
vol. 10, App.
p. 26.

If a verderer died, his heirs or executors were bound

to bring such of the rolls as came into their possession to the next Court. It was probably for this purpose that Elias, the son and heir of Hamo the Clerk, a former verderer, appeared with the verderers at the Justice Seat in 1277.

Charge of
C. J. 1634.
Harl. MS.
6839.

In 1670, at the Justice Seat, the sheriff was ordered to seize the lands of the verderers who were dead, and of the heirs not bringing in the rolls, until they delivered the rolls and made fine; but Mr. Carew Mildmay presenting all the rolls, the order was discharged.

30 Sept. 1670
Plac. For.
Exch. Treas.
of Rect.
County Bags,
Essex, No. 8.

The verderers were entitled to fee deer at the sitting of the Court of Justice Seat, as appears by the warrant of the Justices in Eyre in 1489 already noticed; and in modern times at least they had no other remuneration.¹

Duchy of
Lancaster,
Misc. Rec.

In 1582, amongst other officers to whom woods were said to have been delivered without warrant, each of the four verderers had five loads. Ten years later complaints were made against them for taking this wood, and their right to do so was disallowed by an order of the Court of Exchequer.

Lansd. MS.
34, fo. 97.
34 Eliz. 15.
Rep. of L. R.
C. 1793,
App. 17.

The powers of the verderers, except their small jurisdiction as to vert, were practically limited to inquiry into matters presented at the Court of Attachments by the Forest officers; and an excess of their jurisdiction was punishable by a severe fine, as was experienced by the

¹ The fee in modern times was said to be two bucks and a doe annually, which the verderers did not often get.

In Rockingham Forest each of the four verderers received 25s. per annum.

Sel. Com.
1863, Ev. p. 22.
Mats. for
Hist. of H. 7,
1489, vol. 2,
p. 466 (M. R.
S.).

Plac. For. 22. verderers of Waltham Forest in 1670, when each of them
 Car. 2. was fined 20*l.* at the Justice Seat for discharging a man
 taken in the fact of killing a stag, and distributing the
 Consuet. et fine at their pleasure; this being in breach of an ancient
 Assisa de For. law, that a person taken for killing a wild beast in the
 Cott. M. S. Forest without warrant, was not to be set free but by the
 Vesp. B. 7. special order of the King or his justices.

The discontinuance of the Justice Seat and the
 Swainmote having left the ministers of the Forest without
 power to prevent the numerous inclosures of parts of the
 32 G. 3, c. 161, waste, an Act was passed early in the present century by
 ss. 11—15. which power was given to the verderers to inquire into
 unlawful inclosures and purprestures, and to prosecute the
 offenders in the Court of Attachments; to inflict fines not
 exceeding 20*l.*, and to abate the inclosures; with sum-
 mary powers of recovering penalties before a justice of the
 peace. But if the person accused insisted that the land
 in question was not within the bounds of the Forest, the
 verderers were not to convict, but were to certify the pre-
 sentment to the Attorney-General. The inclosers were
 not slow in acting upon this proviso, and as the Attorney-
 General did not interfere when the inclosures were small,
 10 Geo. 4, the Act was practically useless; as was also another Act
 c. 50, ss. 101,
 102, 104. of the same kind which was passed in the following reign.

THE FORESTERS.

The Forester, or keeper of the King's wild beasts, was sworn to execute his office in his walk in the Forest; to be of good behaviour himself to the King's wild beasts, and the vert of the Forests; not to conceal the offence of any other person either in vert or venison done within his charge, but as well the same offence as also all offences to present at the next Court of Attachments or Swainmote, which should first happen to be holden for the Forest; and to the uttermost of his power to maintain and keep the assise of the Forest,¹ and in all things the King's right defend concerning the same [and be loyal and true to the Warden and Lieutenant of the Forest²], so long as he should be keeper there.

Memoranda
de Foresta.

Book of Oaths,
fo. 300.

The Charter of the Forest, probably in consequence of the appointment of an excessive number of foresters, directed that so many should be appointed for the custody of the Forests, as by view and oath of the twelve Regarders when they made their regard, should seem reasonably sufficient for the keeping of them; and "whether the fforesters be soe manie as they ought to be, or more than is fitt to be," was one of the inquiries which the grand

§ 7.

§ 10.

¹ "The King commands that all his foresters shall swear to keep to the utmost of their power the assise of his forests." Assisa H. 2 de Foresta, § 6.

² The bracketed words are only in the Memoranda of Waltham Forest, and are doubtless interpolated.

jury were charged to make at the Court of Justice Seat for Waltham Forest in 1634.

See Conyers' Answer to Inquiries, 14 Nov. 1788.

The grant of the Stewardship of the Forest to Richard de Montfichet, in 1252, included the right to appoint and remove all foresters and bailiffs of the Forest; and this right was exercised by the Stewards and Lords Warden down to the latest times as to all the foresters except those who held their offices in fee; and who, in the Forest of Essex, were much fewer in number and less unfortunate than their brethren of Inglewood Forest, slain by Adam Bell and his comrades in their raid upon Carlisle; when

Adam Bell,
Clymof the
Clough, and
William of
Cloudesley.

“The baylyes, and the bedyls both,
And the sergeauntes of the law,
And forty fo’sters of the fe,
These outlawes had yslaw.”

9 Hen. 3, § 16.
4th Inst. 315.

The Charter of the Forest imposed upon foresters in fee (whose office being in trust for the King could not be granted over without licence) the duty of making attachments and presenting them to the verderers of the provinces; and when these were inrolled and inclosed under the seals of the verderers, they were to be presented to the Chief Justices of the Forest when they came to hold pleas of the Forest, and were to be determined before them.

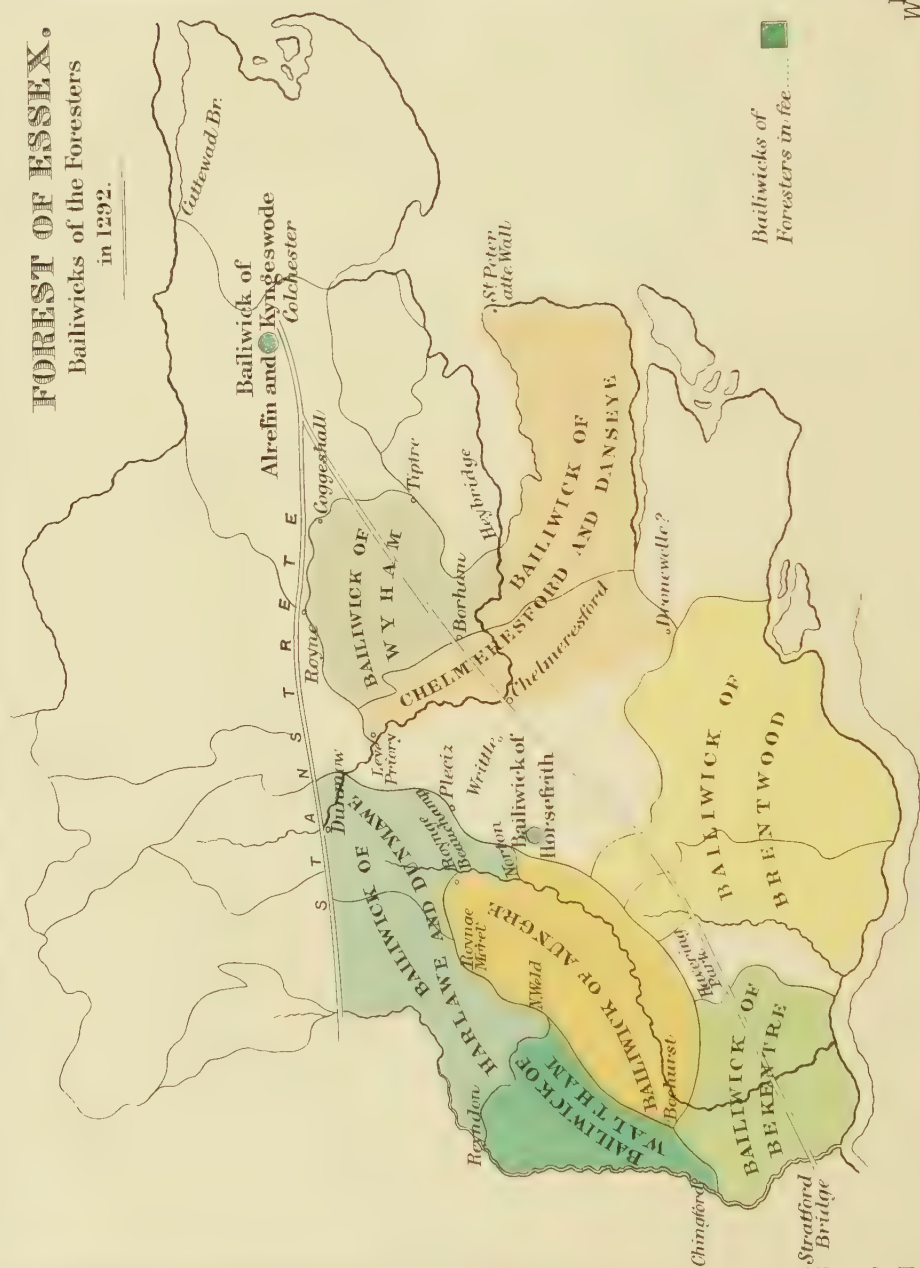
Writ, 9 May, 1225. Pat. Roll, 9 H. 3.

The foresters in fee also assisted the knights, who made the perambulations of the Forest under the Charter.



FOREST OF ESSEX.

Bailiwicks of the Foresters
in 1292.



F.
W.R.

The foresters, who about the end of the 15th century were divided into Master Keepers (with one Riding Forester), and under keepers, were before that time commonly, but not always, called Riding Foresters, and Walking or Yeomen Foresters; and the Riding Foresters appear to have performed in the intervals between the Regards of the Forest, the same duties which on the latter occasions belonged to the Regarders; the oaths taken by each class of officers being alike, except the formal words relating to the office of Regarder.

Memoranda
de Foresta.

In 1250 they are called Foresters and Sub-foresters on the roll of the Court. There were then in Tendring and Lexinden two foresters; in Thurstapele and Wensetri one forester and three sub-foresters; in Wyham and Felstede one forester and two sub-foresters; in Chelmersford and Danesei one forester and three sub-foresters; in Berdestaple and Chafford the like; in the parts of Writtele, in Chelmsford, two foresters; and in Aungre and Waltham, one forester and three sub-foresters.

Cotton Roll
xiii. 5.

At the end of the 13th century there were nine Riding foresters in Essex, each having charge of a separate district or bailiwick.

Treas. of
Rect. For.
Rolls, Essex,
No. 2.
20 Ed. 1.

One had the bailiwick of Becontre hundred, and under him one yeoman forester at Stratford, of whom he received yearly two marks (26s. 8d.); and another at Barking, of whom he received yearly three marks (40s.). He rendered to the Steward of the Forest yearly for his bailiwick five marks.

Another had the bailiwick of Brentwood, that is to

say, the hundreds of Chafford and Barstaple. He rendered to the Steward yearly 40s., and had under him three yeomen foresters, from each of whom he took one mark.

Another had the bailiwick of Chelmsford and Daneseye, which extended in Daneseye from the town of St. Peter atte Wall to the Foldhatch, and from the bridge of Heybridge (Abridge) to the ford of Brickesheth; and in the half hundred of Chelmsford, from Breckeford bridge to the bridge of the priory of Leyes (Leigh), and from the town of Dronewell (? Runwell), including the same town, through the middle of the town of Chelmsford, as far as the boundary of the liberty of Writele. He rendered to the Steward 40s., and also had under him three yeomen foresters, of each of whom he took one mark.

Another Riding forester had the bailiwick of the half hundred of Witham, which extended from Coggeshall to Boreham, and from Little Reynes to Tiptree. He also rendered 40s. to the Steward, and had under him two yeomen foresters, of each of whom he took 20s.

In the bailiwick of the hundred of Dunmawe and Herlawe, which extended in Dunmawe from Dunmawe to Pleciz (Plassey), as far as Mathinge Green, and from Little Norton St. Martin to Stanstrete, and in Herlawe from Bettisso Bridge in Roydon to Martinsford, and to Welde Park as far as Herlawe Mill, there was also a Riding forester who rendered 40s. to the Steward, and had under him three yeomen foresters, of each of whom he took one mark.

And in the bailiwick of Aungre, which extended from Bockhurst to Roynge (Roding) Beauchamp, and from

Royne Wood to Benecleye, was another Riding forester, who also rendered yearly for his bailiwick 40s., and had under him two foresters, from each of whom he took 20s.

All these six were removable at the pleasure of the Steward of the Forest, and each of them took for cheminage (that is, toll for wayfarage through the Forest) in his bailiwick, four pence yearly for each cart carrying timber, brushwood, bark, and coal (charcoal).

This, however, was an illegal demand; for, according to the Charter of the Forest, made nearly seventy ^{9 H. 3, § 14.} years earlier, no forester not a forester in fee paying the King farm for his bailiwick might take cheminage. It was only a forester in fee, paying farm to the King¹ for his bailiwick, who had a right of cheminage, viz.: for carriage by cart, the half-year, two pence; and for another half-year, two pence; for a horse that bore loads, one halfpenny by the half-year, and by another half-year, one halfpenny; and this only of those who came as merchants from without the forester's bailiwick, by licence, to buy and sell again bushes, timber, bark, and coal in his bailiwick; but for none other carriage by cart should cheminage be taken; and it should be taken only where it used to be taken. And those who bore on their backs brushment, bark, or coal, though it was their living, were to pay no cheminage to the King's foresters [except they took it in the King's demesne woods.]

¹ Among the documents relating to the Justice Seat of 1292, is a ^{Treas. of} petition (which, however, has no signatures) claiming freedom from ^{Rect. 20 Ed. 1,} cheminage, because the bailiwick of the forestership was in fee, ^{For. Rolls,} *not* ^{Essex, No. 2.} rendering a farm to the King.

Harl. MS.
6839, f. 261,
§§ 80, 81.

The due observance of these regulations was directed by the Chief Justice of Waltham Forest, in his charge, to be inquired after by the grand jury.¹

Treas. of
Rect.
For. Rolls,
Essex, No. 2,
20 Ed. 1.

There were also, in the 13th century, three foresters, or riding foresters in fee. One of these, Ralph le Mare-schall, held the bailiwick of Alrefen and Kingswood (Colchester) in 1292 by grant from Thomas de Clare (the successor of Munfichet in the Stewardship) to him and his heirs, rendering to Thomas one penny, but nothing to the King, for his bailiwick.

In the time of Munfichet, the riding forester of this bailiwick was Symon Norman, who received of the issues of the bailiwick of Kingswood 11s. 8d. yearly for rent certain; and forty hens yearly, and five hundred eggs at the Castle of Colchester; which profits, as we have seen, were appropriated by Richard de Munfichet when he was Steward of the Forest. Norman also claimed all broken and windfallen wood in the wood of Kingswood. There were under him five yeomen foresters; one in Kingswood, of whom he received yearly half a mark for holding his bailiwick; another in Dyham Wood, of whom he received yearly 5s., and he had besides cheminage in the bailiwick; a third in Dolewyneshaye, from whom he received 20s., and besides had cheminage in the bailiwick; a fourth in the half hundred of Wensentre, of whom

Ch. For. Proc.
(6 Car. 1),
No. 153,
Justices'
Inquiries.

¹ It was found by the jurors at the Justice Seat of 1630 that "in the Fence moneth there is a wronge done to his Ma^{te} leige people dwelling within the Forrest by the Officers, w^{ch} take Toale at Stratford of all Passengers, as well Forresters as others, that is to say ij for Lyne and wantie" (probably burdens fastened to a horse by line and rope), "and iiij for a Carte, which ought not to be taken of the Forresters."

he received yearly 16s., and he had also cheminage there; and a fifth in the bailiwick of Alrefen, from whom he received yearly two marks, besides having cheminage there.

There was another forester in fee, one Henry Fitz-aucher, in the half hundred of Waltham, who rendered no farm to the lord the King, but "ought to make wan-lace" (*i.e.*, bring the quarry to bay) "when the lord the King cometh in these parts to hunt in his bailiwick."

This forester had one yeoman forester, of whom he received yearly half a mark. The forestership was claimed by and allowed to the Abbot of Waltham in 1489, under a fine levied in the reign of Richard II. Although not specially mentioned in the surrender to Henry VIII. of the possessions of the monastery, it probably passed under the words "rights, jurisdictions, franchises, liberties," &c.; and I have found no further trace of it or of the other foresterships in fee.

Duch. of Lanc.
Misc. Rec.
Essex, For.
de Waltham,
4 H. 7.

Exch. Aug-
mentation
Office, 31 H. 8.

The district of the third forester in fee was the bailiwick of Horsefrith, in the hundred of Chelmsford, which, according to Morant, was that one of the two parks at

Vol. 2. 63.

Writtle which lay on the road to High Ongar, and was later known as Hoastley Park or Osterley Park; it had been emparked by Richard de Brus, under a licence granted by Edward I. in 1280. The other was the King's Park or Writtle Park, which lay towards Ingatestone. According to the records, this forestership was held by John de Wolanstone before 1292. He rendered no farm to the King, but held (as he said) one virgate of land in

For. Rolls,
Essex, Charter
Roll, 1292.

the town of Writele, which pertained to the bailiwick, and rendered to the manor of Writele, which was theretofore the demesne of the King, 20s. yearly. He held under charter made by King John to Brian de Terefeld, by which he gave to Brian one carucate¹ of land with the serjeanty of the Forest at Writele. When John de Wolanstone died, Robert de Brus, Lord of Writele, "accroached" and appropriated to himself the serjeanty, and demised it to Hugh de Merk, with the land, for sixteen marks, which he gave him; which serjeanty, it was said, pertained to the King for the custody of his Forest.

The forester of Horsefrith paid nothing to the Steward of the Forest: he had one yeoman forester, who gave him 10s. yearly, and he had the same right to cheminage as the other foresters.

It will be observed that the Riding foresters, who were removable by the Steward, paid him the exact amount which they received from their own yeomen.

Manwood,
ch. 29.

It is implied by the charge to the jury at the Justice Seats, that the foresters in fee sometimes took rewards from their yeomen for their offices, and afterwards removed them and put others in their places for new rewards, "to the great detriment and hurt of the Forest and grief of the countrie"; and we may be sure that there was good reason for the provision in the Charter of the Forest, that no forester or beadle should thenceforth make extortion (*scotale*²), or collect barley (*garbas*),

¹ The land of a plough team, the amount being, like that of the hide, variable.

² *Scotale* is commonly supposed to mean the keeping of an alehouse

oats, or other corn, or lambs, or young pigs, or demand money.

Other misdeeds to which the foresters and other ministers of the Forest were prone, may be inferred from the charge of the Chief Justice; who directed the jury to inquire whether the foresters entertained persons suspected to offend in the Forest—whether they did not rather make gain by killing the game, than use care to preserve it¹—how they demeaned themselves towards

Harl. MS.
6839, fo. 261.
Camb. MS.
fo. 20.

in the Forest by a Forest officer; which none might do without the licence of the Chief Justice. But Spelman's view, that it means generally an exaction of money or other thing, is preferable, and is supported by the terms of a statute of Edward III., which provides that no forester, nor keeper of forest or chace, nor any other minister, shall make or gather sustenance, *puture*, nor other gathering of victuals, nor other thing by colour of their office, against any man's will, within their bailiwick, nor without, but that which is due of old right. The word "*puture*" evidently corresponds with "*scottalls*" in one of the inquiries directed by the Chief Justice at the Justice Seat, in which *scottalls* are precisely defined. "Whether they have kept any *scottalls* in the fforest, *which* are unjust exactions or gatheringe wth in the fforest; as taking reward to suffer men to take their rights in the fforest, as to take barley, oates, sheep, lambe, or the like, of the Comoners, to suffer them to take theire rightful Comon."

25 Ed. 3, st. 5,
§ vii.

Harl. MS.
6839, § 22.
Camb. MS.
fo. 20.

The meaning of the word "*scotale*" is discussed by the learned editor of the Historical Charters of London; but like almost all other writers, he assumes that the last syllable of the word relates to *ale*. This I believe to be only a fancy, with no better foundation than similarity of sound. It was not used by the Chief Justice of the Forest when he denounced alehouses in 1670. It was sometimes spelt "*scottall*," and in Latin "*scotallum*," and appears to have been evolved from "*scottum*," *i.e.*, tribute or forced payment, which is used in the grant by Richard I. to the Canons of Waltham, who were to be free "*ab omni Scotto et Geldo*."

In Index.

Harl. MS.
6839.
Ch. For. 1225.

Charter Roll,
37 H. 3. m. 2.
Inspeximus.

¹ The duty of the keeper is to preserve the deer and keep them for the King and his use, and not to kill or hurt any deer, except he have a warrant from the King or his Justice.

Manwood,
ch. 18.

the King's people—what oppressions or extortions they had committed by colour of their offices, and upon whom—if any of them browsed any mast, or boughs of great oaks in winter, more for his own gain than for sustenance of the deer, or mowed any several ground where the deer were wont to feed—whether they had taken any fine or amerciament of trespassers within the Forest and converted them to their own use—whether they had brought in any new customs into the Forest to the damage of the King or trouble to the country—or whether any Forest or other officer for his own gain, had suffered those that were no commoners to put their cattle into the Forest, or had taken gifts or rewards to suffer strangers' cattle to take common there.

Ch. For. Proc.
(6 Car. 1),
No. 153.
Justices'
Inquiries.

Very few complaints of the conduct of the foresters as a body are to be found in the answers to these inquiries; but in 1630 it was found that “the foresters do usually ryde and hunt the King's deer aforce wth hounds wth a great company wth them, to the disturbance of the game and great trouble and great damage of the country in breaking of theyr fences and gates, contrary to the ancient customes of the Forrest.” A note in the margin states that it is fit for consideration to be ordered to be left, that it should not be done.

Demise of
office of
Warden by
Earl of Ox-
ford, 18 June,
1604, Lord
Morington's
Trustees,
No. 565.
Rep. 266.

The names of the Riding foresters which I have been able to find are in the Appendix. At and after the Justice Seat of 1489, there was but one Riding forester for the whole Forest, who, with his three yeomen foresters, was appointed by the Warden.

The duty of the Riding forester, according to Sir

William Jones, was to lead the King in his hunting; a statement which agrees with if it does not fully describe the "making wanlace" performed by Fitzaucher in the 13th century. The office existed until 1848, but seems to have been vacant between 1742 and 1748, and again between 1789 and 1794. Mr. John Wright was the last Riding forester mentioned in the rolls of the Court; but although the office was held by several persons of consideration, no more important duties were attached to it in modern times, so far as appears by the Attachment Rolls, than looking after the erection of "spurr gates," by means of which the keepers could ride through the inclosed forest lands; and examining into the claims of persons who were said to be illegally pasturing the Forest wastes.¹

Rolls, 18 July
and 6 Sept.
1718.

Id. 16 July,
1722.

In 1489 the districts of the foresters were still called bailiwicks. In 1582 they had acquired the name of "walks." And at the Swainmote and Justice Seat of 1630, and the Swainmotes of 1631 and 1634, the foresters were distributed as follows:—

Duch. of Lanc.
Misc. Rec.
For. of Wal-
tham, 4 H. 7
Lansd. MS.
35, f. 68.

There was one chief forester for Lucton (Loughton) and Woodford walks, with five under foresters for Loughton, and two for Woodford; one chief forester for the walks of Epping, New Lodge, and Chingford, with five under foresters for Epping, two for New Lodge, and three for Chingford; one chief for the walk of Chappel Henault, with two under foresters; one chief for the walks of Layton and West Henault, with

Ch. For. Rec.
Waltham,
6 Car. 1,
Nos. 130, 140.
Id. 10 Car. 1,
No. 140.

¹ In 1863 Colonel Palmer said that the duty of the riding forester was to keep all the rides open.

Sel. Com.
1863, Ev.
p. 31.

four under foresters for the former and two for the latter; and one chief for Walthamstow, with two under foresters.

Attachment
Rolls, 31 Oct.
1713, *et infra*.

The records of the Court of Attachments from 1713 show again a different arrangement. The chief and under foresters had become Master and Under keepers. The walks were ten in number, viz. Epping, New Lodge, Chingford, Woodford, Walthamstow, Layton and Wanstead, West Heynault, East Heynault, Lambourn and Chigwell, and Loughton; for each walk there was one Master keeper and one Under keeper, and this afterwards continued to be the arrangement. In 1714 there is a notice of a sworn assistant to the under keeper of Loughton walk; but it was not till 1812 that the assistant under keepers were entered among the ministers of the Forest on the rolls of the Court. Shortly after that time each under keeper had one and sometimes two assistants.

1 May, 1661.
Appointment
of Earl of
Sandwich to
Walthamstow
Walk, 27 Aug.
1701, Lord
Morington's
Trustees,
No. 583.
Appointment
of Robert
Boothby to
Chingford
Walk.
Earl Tylney to
Theophilus
Salwey,
9 June, 1750,
Lord Mor-
nington's
Trustees.

The office of chief forester or keeper of a walk was granted to him, to be exercised by him or his sufficient deputy (for whom he was to answer), by deed under the seal of the Lord Warden, and for the life of the forester or of him and others. And in an appointment to the office of Forester or Keeper of Chingford Walk, made in 1701, he was bound to keep the lodge belonging to his walk in repair, and to provide one or more resident under keepers, who were to receive such yearly salary as should be agreed upon; in default of which, or if the master keeper should transfer the walk without the licence of the Lord Warden, or should refuse to serve such

warrants as were directed to him, the grant was to be void. The grant was sometimes made to women, and sometimes to several and the longest liver of them, and in reversion as well as in possession. For a grant of the office of Keeper of Chingford Walk to himself, his wife, and his son, Mr. Heathcote, in 1774, paid 550*l.* to Earl Tylney; and the like sum, but partly in deferred and contingent payments, was the price of a similar grant of that walk in 1733.

Attachment
Roll, 19 May,
1775.

Id.

Id. 25 Jan.
1733.

The Riding forester and each Master keeper were entitled to fee deer. The former, in 1788, claimed one buck and one doe from each walk in the Forest. But Sir James Tylney Long's particular, (1788) stated that the fee was only one buck and one doe. Mr. Conyers, the Master keeper of Epping Walk, in his answer to the Parliamentary Commissioners in the same year, claimed two bucks and two does yearly; and these, and the salary paid at the Exchequer to the under keeper of the walk, were, according to him, the only emolument attached to the office of Keeper.

15th Rep. of
L. R. C. 1793,
App. No. 12.

14 Nov. 1788,
Office of
Works.

But in 1582 the Riding forester received for salary 12*l.* 3*s.* 4*d.* A like sum was paid to the Chief forester of each of the walks of Woodford and Walthamstow; 18*l.* 5*s.* to the Forester of Chingford walk; 6*l.* 1*s.* 8*d.* to the Forester of Layton walk; and to the Forester of Hennalt and Chapel Lodge walks, 24*l.* 6*s.* 8*d.* In the reign of Elizabeth the Keeper of Walthamstow walk had a yearly fee of 12*l.* And in 1703, three Master foresters had from the Exchequer, fees calculated at 36*l.* 10*s.* per annum.

Lansd. MS.
35, f. 68.

15th Rep. of
L. R. Com.
1793, App.
No. 8.

Lansd. MS.
34, f. 97.

15th Rep. of
L. R. Com.
1793, App.
No. 17.

Attachment
Roll, 26 April,
1737.
15th Rep. of
L. R. Com.
1793, App.
Nos. 10, 19.

Earl of War-
wick's Letter,
supra, p. 40.

Charge of
C. J. 1634.
Harl. MS.
6839, f. 261.
Consuet. et
Ass. de For.
Ruffhead,
vol. 10,
App. 25.
Cott. MS.
Vesp. B. 7,
fo. 92.

Moreover, in 1582, the Keepers of the three walks of Walthamstow and of East and West Hainault, had 20 loads of dead wood. An order of the Court of Exchequer in 24 Elizabeth directed that the Keepers of these three walks should have 20 loads of dead wood, loppings, and shreddings, for fee wood and livery wood yearly. And in 1735 the Master keepers of Woodford, Loughton, and Lambourn walks were considered to be entitled to an allowance from the King's woods in Hainault of livery logs (dead pollards) or 50s. in money.

In the 13th century, as we have seen, the Forester of the bailiwick of Alrefen and Kingswood claimed wind-fallen wood, which anciently was the usual perquisite of the Woodward.

A horn was the symbol of the forester's office, and when called at the Justice Seat it was his duty to deliver it, kneeling, to the Chief Justice.

It does not appear from the records that the Master keepers in modern times took a very active part in the affairs of the Forest, except by attending the Courts. The ordinary duties of the office were performed by the Under keepers, who were in fact the chief executive officers of the Forest. Those duties were to take account of all deer killed or which had died, and of all trees felled in the King's demesnes; to present what deer had been killed; by whom, by what warrants, and what kind of deer. They were to be stout, strong, and of good courage, to take offenders in the Forest, whom they, like all others, were bound to capture if they could, and if they could not to raise "hu et cry;" they were to keep the Forest

carefully in the fence month, and not suffer commoners to put in their cattle, neither in the plain nor in the covert; to be careful in walking the Forest that no man passing by them had any dog loose to chase the deer; and that men went not with bows bent or guns charged as they passed through the Forest; and when trespasses had been done in venison, it was the duty of the Foresters to assemble the four nearest vills to inquire of it, or cause them to be amerced for not coming to inquire. They were also to attach and hold to pledge offenders against the vert. The jury were further directed to present whether any of the Foresters had been removed, and when, by whom, and for what cause; how every keeper had used his walk; what he claimed to belong to it, and what he claimed by reason of it; and he was bound to affirm at the Swainmote presentments which he had made at the Court of Attachments.

Swainmote
Roll, 1634.

The Under keepers executed the warrants for deer ordered to be killed for the Sovereign or his nominees, or which were allowed to the ministers of the Forest; and when ordered so to do, they brought in accounts of the number of deer in their walks; they looked to the lawing of dogs, and took away and brought to the Court of Attachments the guns, nets, axes, and other implements used by poachers and persons detected in illegally cutting or stubbing the woods. The Court commonly allowed them to keep such of these things as they might lawfully use, and ordered the rest to be burned.

Justice Seat,
30 Sept. 1670.
Attachment
Rolls, Sept.
1719;
25 Jan. 1725-6;
27 Nov. 1732;
Dec. 1716;
June, 1718;
June, 1740;
Feb. 1715;
May, 1744.

Attachment
Rolls, Feb.
1715, Aug.
1785, Jan.
1787.

The Under keepers also executed the orders of the Court to throw down illegal inclosures, to keep open the riding gates, and to do other things of the like nature.

Attachment
Roll, 31 July,
1732.

They and their assistants were sworn officers of the Forest, and might be removed by the Court of Attachments for misconduct; but they were appointed by the Master keepers of their walks.

Mat. for His-
tory of H. 7,
Campbell,
26 Nov. 1490
(M.R. Series).

A grant made in 1489 to John, Earl of Oxford, then Steward of the Forest, shows that a rent of 9*l.* 2*s.* was made payable out of the Manor of Ralegh for the wages of three walking or yeomen foresters, in the three baillies of the Forest; besides which they appear to have taken cheminage. They probably also extorted both money and supplies from the inhabitants of the Forest.

15th Rep. of
L. C. Com.
1793, App.
No. 8.
Return of
R. Hould,
1788.

In 1703, the Under keepers received from 3*d.* to 8*d.* per diem; and in and after 1704, each of them received for wages 20*l.* per annum, reduced by the payment of fees to 17*l.* 7*s.*

The Art of
Hunting.

The Under keepers had also, in respect of all warrants executed within their charge, for the King or any other person, one guinea for every buck, and half a guinea for every doe killed, besides the skin, and the part of the deer usually claimed by keepers¹—a customary right of the successful hunter, which is mentioned by Guillaume Twici, the huntsman of Edward II.; and which, as we may infer from the Foresters' song in "As You Like It," prevailed in Shakespeare's time in Arden, and probably in other Forests.

"What shall he have that kill'd the deer?
His leather skin and horns to wear."

Diary, 13
Sept. 1665.

¹ The keeper, according to Pepys, was entitled to the umbles of the deer.

THE REGARDERS.

In every third year a regard or view of the Forest was directed to be made, together with an inquiry as to the lawing of dogs. These things were done by officers called Regarders, who represented the twelve knights appointed by the Assises of Woodstock to be in each county in which the King had hunting, for the custody of the venison and vert.

Assisa de For.
H. 2, § 10.
Assisa de For.
R. 1.
Leg. For.
John.
Ch. For.
9 H. 3, § 5.
Dial. Exch.
Blk. 1, ch. xi.
Assisa de For.
H. 2, § 7.

The Regarders of the Forest of Essex in the 17th century evidently considered, that as the successors of these knights, they were also the representatives of the *mediocres* or lesser thanes, to whom by Canute's Forest law was committed the care of vert and venison; for in 1630 and 1670 they claimed "as of old accustomed" the same yearly fee which belonged to the *mediocres*, viz., a horse, a lance, a shield, and 60s.; with the addition, in 1630, of the left shoulder of a slayed beast of venary.¹

Ch. For. Proc.
6 Car. 1,
Bundle 130,
No. 21.
Id. Car. 2,
No. 19.

By the Forest laws of John and Henry III., the Regarders were to go through the Forest to make their regard as at the time of the first coronation of Henry II.

Mat. Par. Ch.
Maj. 599,
M. R. S.
Ch. For. § 5.

¹ According to Guillaume Twici, the person who slayed the hart had the head and shoulders by right.

The lord of the manor of Minestead, in the New Forest, claimed the left shoulder of all wild beasts found slain or wounded in the said manor. And in Dean Forest the chief forester in fee claimed the same part of all bucks and does killed within the Forest.

The Art of
Hunting.
Lond. Gaz.
1852, p. 3858.
Brayley &
Britton,
Beauties of
England and
Wales, 5.
711, n.

They were set in motion by the sheriff of the county, who was required by the King's writ to summon the Foresters and Regarders; to cause the number of the latter, if there were vacancies, to be filled up, so that there should be twelve in every regard; and that both Foresters and knights (*i.e.*, the Regarders) should swear to the true making of the regard, by going through all their bailiwicks to view the trespasses expressed in a writing sent with the writ; and they were liable to a fine if they made an insufficient return. On the completion of the regard it was to be engrossed on parchment, and presented at the Swainmote.

Sir W. Jones,
268.
Cambridge
MS. fo. 18.

Book of
Oaths, fo. 299.

The oath of the Regarders was as follows:¹—"You shall truly serve our Sovereign Lord the King in the office of a *Regarder* of the Forest of Waltham; [you shall make the Regard of the same Forest in such manner as the same hath been accustomed to be made;] you shall range throughout the whole Forest and through every bailiwick of the same, as the Foresters there shall lead you to view the same Forest; and if the Foresters will not or do not know how to lead you to make the [Regard] range of the Forest, or that they will conceal from you any thing that is forfeited to the King, you yourselves shall not let for any thing, but you shall see the same forfeiture [and cause the same to be inrolled in your roll]; you shall inquire of all wastes, purprestures, and assarts of the Forest, and also of all concealments of

¹ Except the bracketed words, and the substitution of "riding forester" for "regarder" at the beginning, this oath also served for the riding foresters.

any offence or trespass in the Forest either in vert or venison, by any officer of the same Forest; and all these things you shall to the uttermost of your power do."

The things to be done at the regard of the Forest were specified in the Forest Assise of Henry II., and more shortly in the laws of Richard I.

Assisa de For.
Hoveden,
vol. 2, p. 243
(M.R. Series).
Ben. Pet.
vol. 2, p. clix.
Id.

They included inquiries into the old assarts, the purprestures, the wastes in the King's demesne and other woods, and in the King's closes and fenced grounds; into the mines, the eyries of hawks, the new assarts, and the forges in the Forests.

The instructions issued to the regarders of Waltham Forest in 1630 bear internal evidence that they were in the form used in or soon after the reign of Henry III. They directed the regarders to view the assarts and purprestures made after the beginning of the second year from the first coronation of that King, *i.e.*, from 1218; and to report the several particulars concerning them which will be found in a later chapter; also to view the old and new wastes of wood, the King's demesne woods and parks, and the wastes in them; the aëries for the goshawks, sparrow hawks, and falcons, and who had and ought to have them; the forges and mines, and the customs and rents rendered in respect of them; the parts of the sea to which ships and boats moor, to carry away timber and firewood from the Forests; if any one had them anew which were not in the time of King Henry, who made them; to view the honey if any was in the Forest, who had it, and whether it belonged of right to the King or others; and who had bows, arrows,

Camb. MS.
fo. 9, &c.

See Ch. VII.

crossbows, brackets, or harehounds, or other contrivance for harming the King through his wild animals.

Thorpe's
Ancient Laws,
i. 527.

Wilkins, 352.
Hoveden, 2.
245; 4. 63
(M. R. Ser.).

Some of the Forest offences, for the discovery of which these inquiries were framed, are mentioned in the supposed Anglo-Saxon laws collected during the reign of Henry I., and others in the Forest laws of Henry II. and Richard I.; which declare that whosoever should offend in the King's Forest as to the vert, either by the felling or disbranching of trees, the digging of turves, the stripping of moor land, the cutting of underwood, or by assarts or new purprestures by fence or ditch, or by the removal of a windmill, or the course of a stream, or of slaughter or other houses, or by cutting crops beyond the banks or ditches, should be in the King's mercy as to his goods, unless he had the warrant of the Verderers or the King's Foresters. It was to be the same as to those who carried bows or arrows, or brought dogs without a leash through the Forest; and all these things, as well as the particulars concerning the old and new assarts, were to be examined at the regard of the Forest.

Cambridge
MS. fo. 12.

It was of course impossible for the regarkers in 1630, to execute the instructions which related to acts done more than 400 years before; they were therefore further instructed not to limit their inquiries to what was set down in the above articles, but principally to respect and present offences done since the last Justice Seat, without neglecting earlier ones of which due proof should be given; and to present any remarkable nuisance or annoyance to the Forest leading to the terror of the

wild beasts (such as mills), or to the endangering of them by digging pits in the walks, straitening and stopping common ways, not repairing hedges, and the like, by which the King's hunting was impeded; and also unexpeditated mastiffs, the making of cony warrens, and other offences leading to the destruction of the vert and venison.

The wastes of some of the landowners were exempted from the visits of the Regarders. It has been said that such exemption was alone equivalent to disafforestation. But the real effect of it is shown by the result of an inquiry held in 1292, under a writ¹ of Edward I., by the Foresters, Verderers, and Regarders of the three regards of Colchester and Alrefen, of Ongar, and of Chelmsford, with thirty-six knights and others, into a complaint made by the Abbess of Barking; that whereas certain of her woods were without the Regard, so that she ought to cause them to be kept by her servants and ministers without the ministers of the King, the latter hindered and imposed divers burdens upon her, so that her ministers could not keep the same woods as they had been accustomed in times past, to her no small loss and grievance. The finding was that the Abbess had in Barking, Tolesbury, and other manors in the Forest, certain groves which had always been used to be without the Regard, so that the King's Foresters entered the same when they would, and had wholly the custody of the venison within the same, but the Regarders did not make a Regard therein. So the Steward and other

Exch. Treas.
of Rect. Pl.
For. No. 2 a.
20 Ed. 1.

See *infra*,
"Wood-
wards."

¹ The writ was tested at Newcastle-on-Tyne.

ministers of the Forest were ordered entirely to desist from causing any hindrance and grievance to the Abbess and her servants in her said groves, and to suffer her to hold them without the Regard, as she had been accustomed to do in times past.¹

Another place which was out of the regard, was Corbicum or Corpechum, afterwards called Wallwood, in Leyton, but this was expressly disafforested by a charter in 1253, which was on several occasions confirmed by later charters, as will be found in another chapter.

Bodl. Lib.
For. of Waltham.
36 Eliz.
See Ass. For.
H. 2, § 4.

There was a woodward, one Thomas Horsenayle, for this wood in 1594, at which time it was the property of the Crown.

The early history of the regards of Waltham Forest is somewhat obscure.

Cotton Roll
xiii. 5.

In 1250, there were two regards for the hundred of Thurstapele, two for Wensetri, and two for Lexenden at Tippetri (Tiptree); two for Wyham and Felstede, four for Chelmersford and Danesei, one for Berdestaple and Chafforde, one for Chelmersford in the parts of Writele, four for Aungre, and two for the half hundred of Wantham—twenty in all.

Plac. For.
1277.

The presentments made in 1277, at the pleas of vert for the half hundreds of Lexendene, Wesentre, and

Lansd. MS.
34, f. 97.

¹ This may have been the foundation of a statement which occurs in a memorandum made about 1582, that "Henholt" was parcel of the Abbey, and not of the Forest; and that no lieutenant of the Forest had anything to do in Henholt before the suppression of the Abbey.

Thurstapele, were made by the three verderers and by Elias the clerk, son and heir of Hamo the clerk, formerly Verderer; the pleas of venison for the hundred of Waltham by Henry the son of Aucher the Forester; and only the Regards of Colchester and Ongar were duly presented by eleven "Regarderors," the first holders of the office whom I have found mentioned in the Forest of Essex under that title.

In 1292 the Foresters, Verderers, and Regardsers of the three Regards of Colchester and Alrefen, Ongar, and Chelmsford, held the inquiry just mentioned about the woods of the Abbess of Barking; and several presentments were made by Regardsers in the same year, and also at the Justice Seat in 1323: but it is not till the year 1489 that we have a full record of a Regard. There were then eighteen Regardsers—but only three are named at the Swainmote of 1495, two of these being among those mentioned in 1489.

Duch. of Lanc.
Misc. Rec.
4 H. 7.

Duch. of Lanc.
Misc. Rec.

At the Swainmote of 1594 there were twelve Regardsers, which was the number prescribed by the Assise of Woodstock. The like number was present at the regard of 1630, and at the Justice Seat held immediately after it; when the revival by Charles I. of the Forest laws for the purpose of raising money, led to the most searching Regard which is on record in this Forest. The Regardsers certified that they had made their perambulation, and had ranged through the whole Forest, and every bailiwick of the same, and had there viewed the wastes, purprestures, assarts, offences, and trespasses thereafter presented. Their presentments were more than 400 in number; and some of the offences were

Bodl. Lib.

Ch. For. Proc.
Waltham,
6 Car. I (1630),
No. 44.

alleged to have been committed from forty to sixty-six years before the date of the Regard.

They were said to have been done in Walthamstow, Woodford, Wanstead, Westham, Layton, Barking, Dagenham, Chingford, Waltham, Nazing, Epping, Lambourne, Chigwell, Theydon boys, and Loughton; all places within the Forest as the bounds were fixed in 1301, and not extending to the larger district afterwards claimed by the King; and they included the making inclosures, building, and digging pits on the waste; stubbing up woods; girdling, and cutting down timber trees; leaving woods unfenced which had been cut; making coney burrows; hunting in the Forest; lopping trees when the leaf was coming forth, by which the deer were hindered of browse; leaving lanes incumbered with wood and bushes, so that the King was hindered in hunting; erecting buildings on the waste; and keeping and using dogs and guns in the Forest: in conclusion the regarkers certified that more than 150 dogs were

Ch. For. Proc.
Waltham,
No. 140.

Ch. For. Proc.
Waltham,
No. 138.
14 Car. 1.

Ex. Treas. of
Rect. Pl. For.
Essex, No. 6,
1670.

For. Proc.
Chy. Waltham
For. Essex,
16 Car. 1,
Bundle 142.

Ex. Treas. of
Rect. Pl. For.

unexpeditated.

Eleven regarkers appeared at the Swainmote held in 1631, and twelve at that of 1634. In 1638 the regard for the hundreds of Becontree and Waltham, and for the part of Ongar hundred which was within the Forest, was held by only ten regarkers; but at the Swainmote of 1640, the names of forty-eight regarkers appear—twelve for each of the districts of the hundreds of Waltham and Becontree, the hundred of Chelmsford, the hundred of Colchester, and the bailiwick of Ongar. Of these fifteen, and another not named in the lists, signed the roll.

At the first regard of 1670 there were thirteen, and

at the second only twelve regarders. At the Justice Seat of 1670, a Regard roll made in 1665 was presented, and this appears to be the last Regard which was made in the Forest, all the subsequent presentments recorded having been made by the Keepers or Foresters or their subordinates at the Court of Attachments.

Essex, Nos. 5,
6, 8. 1670.

At the Justice Seat in 1489, it was ordered that to Reginald Pympe and Richard Barle and his fellow Regarders should be given two deer called soares, and two female deer in winter.

Duch. of
Lanc. Misc.
Rec.

THE RANGER OF THE PURLIEUS.

The duties of the Ranger were, for the most part, exercised beyond the actual limits of the Forest. He watched over the rights of the King in the purlieu, *i. e.* the free or exempted places on the borders of the Forest, which, though not part of the Forest, were not entirely discharged from the rights of the Crown.

The history of the purlieu begins with the declaration in Magna Charta, which was reaffirmed by the first Charter of Henry III., that all forests which had been afforested in the time of John should forthwith be disafforested. Henry III., in Charta Forestæ, also discharged from the Forests all woods afforested by John or Richard

§ 47.

§ 38.

§ 3.

§ 1.

4th Inst. 303.
Manwood,
ch. 20.

to the time of Henry's first coronation, saving only his own demesne woods. But by another clause he had directed that if it should be found, upon a view of the Forests, that Henry II. had afforested any woods other than his own demesnes "to the loss of him whose wood it was," they should be disafforested. This disafforestation certainly enabled the owners of these lands to stub their woods, and inclose¹ and otherwise improve their lands; and it was the opinion of Coke that in any of the disafforested lands, whether they had been afforested by Henry II., Richard, or John, a man might also as lawfully hunt in his own grounds as any other man might in his lands that never were afforested.

But it was held by some that the words "to the loss of him whose wood it was," which were used only with reference to the forests made by Henry II., meant that the disafforestations were only for the benefit of the owners of the disafforested woods; and that against all the rest of the world the wild beasts still belonged to the King, and he might hunt, and forbid all except the owners to hunt, in the purlieus, as if they were still forest.

Whether this was the intention or not, it seems to have been upon these words, that the Crown rested its claim to make regulations as to the hunting in the Forest purlieus. These regulations were certainly enforced in

¹ Some inclosures in Theydon purlieu presented in September, 1785, were thrown open by Thomas Hatherill, the under ranger, in July, 1787; but he no doubt exceeded his powers. No attempt was made to act upon other presentments made by the same officer in October, 1789, and July, 1803, of the digging up and inclosing purlieu land.

the purlieu of the Forest of Essex, and afford some evidence, not inconsistent with the perambulation of 1301, that the districts included in these purlieus had been afforested by Henry II. ; which is the more likely because his afforestations, as the earliest which were treated as illegal by *Charta Forestæ*, would naturally comprise the lands adjoining the ancient and legal Forest. The illegal afforestations of the later Kings, on the other hand, ever widening in area as they became more remote from the original Forest, would upon disafforestation be beyond the supervision of the purlieu officers, of whom there was never a large staff. And in fact all the purlieus mentioned in the records, except Rayleigh, viz. those of Leyton, Nasing, Epping, Stapleford, Weald side, Bentry or Benfry heath, Ongar park, and the liberty of Haverling, lie on the outskirts of the ancient Forest. Their assumed position is shown on the map which faces page 50.

The distance of Rayleigh purlieu from the Forest is perplexing. The village is in the hundred of Rochford, which, according to the perambulation of 1301, had been out of the Forest from time immemorial ; although that of 1225 states that it was afforested after 1154, which would bring it within the above definition of a purlieu. Both perambulations agree that the hundreds of Chafford and Barstaple, which lie between the Forest and Rochford, were also afforested after 1154 ; so that possibly the purlieu may have taken its name from Rayleigh as the vill nearest to its extreme end, and lying, in fact, only just beyond the bounds of the hundred of Barstable.

The office of the Ranger is described in his oath as exerciseable upon the borders of the Forest.

§ xvi. Ben.
Abb. (M. R.
Ser.), vol. I,
p. clxi.

There are no means of fixing the external boundaries of the purlieu. The perambulation of 1301 shows that the hundreds of Chafford, Barstaple, and Dengie, and the half hundreds of Witham, Thurstable and Wenestree, were afforested by the three Kings, Henry II., Richard, and John. Some disafforestations were made by Henry II. and his predecessors; and the Assise of Woodstock seems to refer to the purlieu, in speaking of places beyond the Forest where the King's beasts resorted or had peace. But except for the slight indication suggested by the proximity of the purlieu to the ancient Forest, it is not known what lands were afforested or disafforested by each of these Kings.

The bounds of Richard's afforestations are not mentioned; and the banks by which John protected his afforestations were included in the disafforestation,¹ and were doubtless destroyed at once by the owners of the lands upon which they stood.

The perambulations do not mention the purlieu, except that those of 1630 and 1641 refer by name to the purlieu hedge and purlieu bank at Theydon Green, Epping, and Thornwood Common, but only as Forest boundaries without the names of the adjoining purlieu; the banks were the boundaries between the Forest and the purlieu, and not the external boundaries of the pur-

Magna Charta,
§ 47.

¹ "Omnes forestæ quæ afforestatæ sunt tempore nostro, statim deafforestentur; et ita fiat de ripariis quæ per nos tempore nostro positæ sunt in defenso."

lieus. Part of the purlieu bank still remains at Epping, and is under the special protection of the Conservators of the Forest;¹ and this, and "the Purlieu Farm," on the east of Epping Thicks, are believed to be the only remaining traces of the purlieus of this Forest.

After the perambulation in 29 Edward I., a question seems to have arisen as to its effect upon the rights of the owners of lands which it put out of the Forests. These persons having requested that they might be acquitted of their charge and of things that the foresters demanded of them *as they were wont to be*; the King, with some ill humour, answered, that where he had granted purlieu, he was pleased that it should stand in like manner as it was granted, "albeit that the thing was sued and demanded in an evil point."

The purlieu officers were the Chief Ranger, who was appointed by the Warden of the Forest; and under him four sub-rangers appointed by himself. The names of the rangers are not entered in the records of the earliest Courts, and the districts of the sub-rangers were more than once altered.

Ralph Coterell, ranger (rangiator) in 1489, is the first whose name I have been able to find; and rolls of the Court of Attachments for the years 1589 and 1590 contain the names of several sub-rangers: Hamblet Johnson for Lughton walk, Edward Stanmer for "Hernold," John Growe for Chapple Heinault and Lowe woods, Richard Elkin for Epping, and Henry Wright for

Attachment
Rolls, 1763
and 1811.
Id. 1740, 1755,
and 1763.

Duch. of Lanc.
Misc. Rec.
For. Roll,
No. 90, Harl.
Rolls, C. C.
12, 13.

¹ Epping Forest Act, 1878, s. 7 (3).

Lamborne—the names of the purlieu officers being thus taken from districts lying opposite to the purlieus within the Forest boundaries.

Swainmote,
36 Eliz. 1594,
Bodl. Lib.

In 1594, “The Most Noble” Sir Thomas Heneage, Knt., Vice-Chamberlain, was Ranger; and between

Ch. For. Proc.
6 Car. 1,
No. 130.

that date and 1630 were, first, Sir Moile Finch, and, on his death, Sir John Wentworth, who surrendered the office to Henry, Earl of Oxford, from whom he had received it.

Id.

Id.

After them Sir John Hippesley was Chief Ranger in 1630, and Edward Compton ranger for the liberty of Havering, which having ceased, as we have already seen, to be part of the Forest, was now treated as purlieu. There were also four under rangers—one for Dagenham side, which probably included the districts formerly named from the walks of Hainault, Chapple Heynault, and Lowe woods; one for Epping, one for Loughton, and one for Layton.

Ch. For. Proc.
Waltham,
10 Car. 1,
No. 140.

In 1634 Sir John Hippesley was still Chief Ranger, and Henry Breame ranger of the liberty of Havering atte Bower, and Dagenham side; with a sub-ranger for each of the purlieus of Loughton, Epping, and Layton with West Hainault.

Commission
of Perambu-
lation and
Return.
Petty Bag
Office, 1641.

In 1641 Thomas Witherings was Chief Ranger and also one of the commissioners for making the perambulation of that year; and among the persons summoned to take part in it were Henry Breame, formerly called the Ranger, but now only the sub-ranger of the liberties of Havering atte Bower, and the sub-rangers of Epping, Leighton, and West Hennault.

In 1701 Robert Boothby, of Fryday Hill, in Ching-

ford, although not nominally a ranger, was appointed a gamekeeper of the county of Essex, with the same power as the ranger, to give account of and to re chase and with hounds drive back the outlying deer in the county into the Forest, and generally to seize the guns and implements of poachers.

7 June, 1701,
pen. Lord of
Man. of Ching-
ford Earls.

From 1709 to the break-up of the Forest establishment, there were always a Chief Ranger and four sub-rangers. During this period the names of the purlieus in which the latter acted, are not mentioned in the headings of the rolls of the Court of Attachments; though, as in the case of the under ranger of Ongar Park purlieu in 1719, of one of the "Poraliew Rangers of Raighleigh" in 1740, and of three under rangers of the purlieus of Hainault in 1786, the names are sometimes added to the entries of the swearing of the officers.

The following persons were the rangers in and after the year 1709:—

1709. John Wroth, Esq.¹

1718. Lord Castlemain.

1722. John Goodere, Esq., who held the office till
1757.

1763. Anthony Bacon, Esq.

1786. Sir William Smijth, Bart.

1811. Charles Smith, Esq.

1814. William Matthew Raikes, Esq. (died 1817).

1830. William St. Julien Arabin, Esq.

1831. Sir Emanuel Felix Agar, Knt., who still
held the office at the date of the last Court
entered on the rolls, 6th December, 1848.

¹ Sched. of
Grants of
Offices to
Conveyance to
Sir R. Child,
1709.
The rest from
Attachment
Rolls.

Memoranda
de Foresta.

Book of
Oaths, 1649,
fo. 296.

The duties of the Ranger and his under rangers appear from their oath, which bound them well and truly to execute their office in the purlieu of Waltham upon the borders of the King's Forest of Essex, otherwise called the Forest of Waltham;¹ to rechase, and with their hounds drive back again, the wild beasts of the Forest, as often as they should range out of the Forest into their purlieu; truly to present all unlawful hunting and hunters of wild beasts of venery and chase, as well within the purlieu as within the Forest; and these and all other offences, to present at the King's next Court of Attachment or Swainmote, which should first happen.

15th Rep. of
L. R. Com.
1793.
Return of
Richd. Hould,
1788.

The Chief Ranger had, up to 1703, 6*d.* per diem. In 1704 the salary was 20*l.* per annum, and that of each under ranger 10*l.* In 1788 the latter had only 8*l.* 13*s.* 6*d.*, the reduction being probably caused by Treasury fees.

Doct. temp.
H. 8, Brit.
Mus.

15 Rep. of
L. R. Com.
1793, App.
No. 12.

And the Ranger was entitled to fee deer, which, according to the claim of Sir William Smijth in 1788, consisted of one buck and one doe annually from each walk.

13 R. 2, c. 13,
and see Can.
F. L. §§ xxx.
xxxi.
Manwood,
ch. 20.

The purlieu laws related almost exclusively to hunting. It has already been said that an owner of lands in the purlieu, who was called a purlieu man, could only hunt there according to certain regulations. First, he must have free land within the purlieu to the yearly value of 40*s.*, or must possess such other statutory qualification as would enable him to keep dogs for hunting; and if he had it not, he might only chase the wild beasts out of

¹ The oath in this form was probably not of earlier date than 1489, when the expression "Forest of Waltham" first appears on the records of the Courts, though it was used in the perambulation of 1301.

his own purlieu lands with little dogs ; if he had no freehold, the land as to him was absolutely forest.

Again, if qualified to hunt, the purlieu man might hunt only with dogs, and might not use any engine for the destruction of the beasts. He must begin the chase in his own purlieu land. Having done so he might follow it over any other free land within the purlieu ; but he must chase the game towards the Forest, and by no means “forstall,” that is, get between the beast and the Forest so as to prevent it from returning to the Forest ; for it was written in the Assises of Woodstock that no man should, upon pain of a year’s imprisonment and fine and ransom at the King’s pleasure, make any forestalling for his wild beasts, either with dead hay¹ or quick hay, between the King’s forests and the woods or other places by him or his progenitors disafforested.

Ass. of Woodstock, § 16.

He was also bound to call his dogs off the quarry by blowing the rechange before they entered the Forest, unless, being already fastened on the deer, it drew them into the Forest.

Manwood, ch. 20.

If the wild beasts recovered the Forest again, though not *infra filum forestæ*, but within the lyst or the brink of the Forest, before the dogs fastened upon them, then they were absolutely the King’s wild beasts again, or those of the owner of the Forest.

It was also a rule that the purlieu man might hunt only with his own servants ; he might not hunt upon, or within the bounds of the Forest ; nor chase unseasonable deer ; nor hunt in the night, before sunrising or after

Camb. MS. fo. 37.
Manwood, ch. 20.

¹ Dead fence, which would include nets ; or quick fence.

sunset, nor on Sundays,¹ nor in the fence month, nor
 more than thrice in the week; and therein, says the
 Fos. 37, 38. Cambridge MS., it is the ancient course of this Forest,
 for the Mondays, Wednesdays, and Saturdays to be
 reserved for the rangers to drive back the deer to the
 Forest, and purlieu men not to hunt therein.

Neither might he hunt within forty days before or
 after a general hunting by the King, nor after notice
 that a forester was serving any warrant (*i.e.* executing
 an order to kill or capture deer) near the border of the
 purlieu; and in hunting he was not to associate with
 wrongdoers.

See Charge,
 1 Oct. 1634,
 § 41, Harl. MS.
 6839, fo. 261.

It was also a rule in the purlieus of Waltham Forest,
 that the deer were not to be hunted against the wind.

4th Inst. 303.

Coke, however, appears to put the hunting rights of
 the purlieu owners as high as those of persons whose
 lands were never afforested. The rights of such persons,
 according to Skene's Forest Laws, were not only abso-
 lute beyond the Forest, but, within certain limits, also
 existed within it. The regulation declares that, if any free
 tenant, having by virtue of his infeoffment free power to
 hunt within his own land marching near to the King's
 Forest, lets and suffers his dogs to run within his own
 land, and they follow the beast within the King's Forest,
 he may follow his hounds within the King's Forest as far
 as he may cast his horn and his dog leash. If the hounds
 take the beast within that space, the man may take the

Skene's Reg.
 Maj. Forest
 Laws, cap. 17.
 Houard, Cust.
 Ang.-Norm.
 Leg. For.
 cap. 17, vol. 2,
 p. 572.

Tib. A. 3,
 fo. 61.

¹ A very ancient rule. In Ælfric's Colloquies, the hunter is asked,
 "Hast thou hunted to-day?" He answers, "I have not, because it is
 Sunday."

beast and his hounds without challenge, but if he exceed the space, he must pay eight cows, and forfeit his hounds with the beast.

The purlieus afforded great facilities to poachers; and Manwood remarks, that "it seemeth the pourallee Ch. 20. men with their adherents have consented together to destroy the Forest by colour of pourallee hunting; which they have almost brought to passe in the Forest of Waltham: or at least they will do so in short time if their hunting be suffered as it is now used."

The rarity of presentments of breaches of the purlieu laws in the Forest of Essex probably arose from the inability of the rangers to watch the large spaces included in their districts; and partly, perhaps, from the fact that during a long series of years the illegal afforestations, of which the purlieus consisted, were upon several occasions reclaimed by the Crown, and were then treated as forest.

There were, however, several of such presentments at the Swainmotes of 1495 and 1594. Included in the first of these was Rauf Coterell, the "Comyn Hunt" of London, and William Gyket, his son-in-law, who with another person slew two harts in the purlieus.¹ In 1594 one presentment is for killing a great buck with greyhounds, in the Forest, coming out of the purlieu; another for killing two stags with two crossbows by night in the purlieu; another for standing up with a crossbow in the purlieu near Bentrye Heath in the night; a fourth

Duch. of Lanc.
Misc. Rec.
9 H. 7.
For. of Wal-
tham, 36 Eliz.
Bodl. Lib.

¹ This they could only do if they hunted the harts on their own lands in the purlieus as is stated above.

for standing with a crossbow bent, and a forked arrow in the same, between the hours of viii and ix of the clock in the night, between the Forest of Waltham and the purlieus of the same; a fifth for having killed a fawne in the winter in the purlieus, by "unorderlye hunting." The last offender only appears to have hunted by right, but against the rules; as did also several purlieu men and divers belonging to them, who "killed one redd deer, being a 'herst,' upon the xxiiij day of June being Sondaye in the mornynge, about xi of the clocke in the same mornynge, in the service tyme at Wield side plaine, beinge purlieus belonging to the Forest of Waltham."

Ch. For. Proc.
Waltham,
No. 140,
10 Car. I.

At the Swainmote of 1634 there are also several presentments against persons for hunting in the purlieus of Leyton and Stapleford Abbott, not having any lands or tenements in the same. One of these misdoers, being a gentleman, was fined 20s.; another, a yeoman, 10*l*.; and a third, a butcher, who had assisted another in hunting in the fence month, 20s.

Attachment
Roll, 19 Feb.
1716-17.
Id. 18 July
and 6 Sept.
1718.

In 1716-17 the under-ranger presented a stag killed within the purlieus of the Forest, by Sir John Tyrell's and Lady Peter's hounds, and carried to Sir John Tyrell's house. And in 1718 a person was presented for slipping a leash of greyhounds at a sore and sorel as the Ranger was hunting them into the Forest again, the said deer being within the purlieus of the same Forest. But no further presentments are recorded, although the Ranger with his under rangers, continued to hold office for more than 100 years later.

THE WOODWARDS.

The Kings Henry II. and Richard I. ordained that all who had woods within the bounds of the King's Forests should put proper foresters in their woods, for whom the owners of the woods themselves should be pledges; or should find proper pledges, who should be answerable if the foresters were guilty in anything belonging to the King. Those who had woods beyond the regard of the Forest in which the King's hunting "had peace" were not allowed to have any forester unless he swore to the assise of the King, and the peace of his hunting. And the King's foresters were to oversee the Forest of the knights and others who had woods within the bounds of the King's Forests, that the woods were not destroyed; for if they were destroyed the owners were warned that amends would be taken of them or of their lands, and of none other.

Assises of
Woodstock,
§§ 4, 5.
Stubbs, Sel.
Ch. 150.
Wilk. A.-S.
Laws, 351.

The officers who were appointed by the owners of woods under the above ordinances were always called Woodwardes in the Forest of Essex; the foresters being, as we have seen, officers of the Crown, appointed by the Lord Warden, having the oversight of bailiwicks or walks, and various duties not specially connected with the woods. The Woodwardes were sworn at the Forest Courts to keep and occupy the office of the woodwardship of the Forest of Essex, and truly attach and true present-

Memda. de
Foresta.

ment make to their power of all manner of trespasses done to vert or venison, waif or stray, within their keeping at the next Court of Attachments.

Pl. For.
5 Ed. 1.

It is shown by several entries at the Justice Seat held in 1277, that the above ordinances referred to the woodwards. Thus, Richard Leyr, woodward of the wood of Heybrigge¹ (in Chingford) having kept it badly, and permitted much damage, the attorney of the Dean of St. Paul's, to which the wood belonged, by command of the Crown, made him come, and he was fined one mark.

Pl. For. Exch.
Treas. of Rect.
No. 2 a.
20 Ed. 1.

Again, it was complained that the Templars of Chingford took the woodward out of the wood of that manor, which they had in farm, and that it was without a sworn keeper of the peace of venison; and that Richard de Tany withdrew the surety of his woodward of the wood of Stapleford, and did not permit him to be sworn of the custody of venison as he ought; and when the wood was taken into the King's hands, De Tany seized it, and caused it to be felled; for which offences he was fined 20s., and presented his woodward sworn to the custody of the woods. It was also found in 1292 that the Abbess of Barking ought to have her woodwards sworn to the King of the five great woods of Alfrefen, Hyneholt, Gaysham, Alesereth, and Henglegh wood, which belonged to her house and manors, and were fully within the regard of the Forest.

If woodwards were not duly appointed, or if they neglected their duties, the woods were seized into the

Domesday of
St. Paul's
(Camd. Soc.),
p. 107.

¹ The same wood had been wasted before 1222 by Simon de Stanbrigg, a canon of St. Paul's.

King's hands. Several woods are stated to have been so seized in 1250. The same thing, as we have seen, happened to the wood of Richard de Tany in 1277, and in 1323 to that of William Gernonn, near "Wynterree" (Wintry), in Theydon Gernonn, for the recovery of which William had to pay a fine of 5*s.*; and to woods of John Wade, Canon of St. Paul's, and of Thomas Priour, in 1372.

Cotton Roll
xiii. 5.

Ex. Treas. of
Rect. 17 Ed. 2,
m. 26 to
m. 28.

Treas. of Rect.
Misc. For.
Rolls, B. 153.
Roll 27.
46 Ed. 3.

Cotton Roll
xiii. 5.

The rules as to woodwards were strictly enforced in the 13th century. At the Court held in 1250, the names of 121 of these officers are mentioned, of a very small number of whom it is stated, that they were not yet sworn.

At the Justice Seat of 1489, 29 woodwards of different manors were present and sworn; and 5 or 6 of these, with others, in all 32, were present and sworn at the Swainmote of 1495, being described as woodwards of different woods in the half hundred of Waltham, and of the bailiwick of Ongar.

Duch. of Lanc.
Misc. Rec.
4 Hen. 7.
Id. 11 Hen. 7.

In 1594, at the Swainmote only 18 woodwards, and the woods for which they were sworn, are mentioned. In 1590, and again in 1630 and afterwards, the walks of the Forest formed the districts in which the woodwards acted.

Bodl. Lib.
For. of Wal-
tham, 36 Eliz.

For. Roll,
No. 90,
32 Eliz. Harl.
Roll, C. C. 13.
Ch. For. Proc.
6 Car. 1,
Bundles 130,
137, 143.

The lords of the Forest manors, long before this, had found the advantage of having servants in their woods, who were responsible to themselves as well as to the Crown; and they claimed as a right to make the appointments which were required by the Forest law. As early as 1323, the Earl of Arundel claimed to have

Exch. Treas.
of Rect. Pl.

For. 17 Ed. 2, his woodward for guarding his own woods in his own manor of Wolfhamston, "so that he gives his oath before the King as is the custom." A claim was made in like terms by the lord of the same manor in 1670, and also by the lord of the manor of Higham Bempstead; and in 1630, 1653, and 1670, claims to appoint woodwards were made by the owners of the manors of Waltham Holy Cross, Nazing, Sewardstone, Claverhambury, and Woodrydden; Wanstead and Stonehall; Chingford; Theydon Hall; Woodford and Hill House; Chobhams; Ruckholt; Walthamstow; Wolfhamston; Epping; Lamborne Hall; and Battelshall: and for the woods of Larks and Dunhurst Hill in Chingford Earls; the estate of Barrington's in Chigwell; and some other woods and coppices.

For. Proc.
Chy. 6 Car. 1.
Exch. Q. Rem.
1653-4. Exch.
Treas. of Rect.
Plac. For.
1670.

Attachment
Rolls.

The last entry which I have found of the swearing of a private woodward was in October, 1728, when Thomas Catlin was sworn as woodward to Sir Harry Hicks, lord of the manor of Ruckholts, "to preserve his woods from being destroyed, subject to the Forest laws."

15th Rep.
L. R. Com.
1793.

When the Crown became the owner of woods in Hainault, there was also a King's woodward who, like the other woodwards, was sworn at the Court of Attachments. The grant of this office to keep the King's woods in Chapple Heynault, West Heynault, Tom att Woodes, and Gresham's Hall Fee, was made by the King, in 5 James I., to Robert Barefoote for life, with the wage and fee of 40 marks yearly; besides which he was riding bailiff of the demesnes of Barking and the liberties of Eastholt, otherwise Hainault, and Gresham's Hall Fee,

with the wage of 32s. 4d. yearly; and shortly after the office was granted in reversion by the King to John Holmes and Gerson Holmes for their lives. Barefoote appeared as King's woodward at the Swainmote and Justice Seat in September, 1630, and Gerson Holmes at the Justice Seat in 1634. The appointments to this office were in modern times made by the Lord Warden, and with those of the under woodwards, are regularly entered on the Attachment Rolls from 1713 down to July 1816. The names of the King's woodwards will be found in the Appendix.

Ch. For. Proc.
Waltham,
6 Car. 1,
Nos. 130, 137,
and 143.

Id. 10 Car. 1,
No. 140.

15th Rep.
L. R. Com.
1793.

In the rolls which I have seen of the time of Elizabeth the names of the woodwards of private woods are also entered among the ministers of the Forest, but they do not appear on the rolls of the 18th and 19th centuries.

The offices of King's woodward and of his two under woodwards continued to exist so long as the Courts were held. Their duties, so far as can be judged from the records, consisted of the general supervision of the woods, and of the exercise of the rights of lopping them; and they provided assignments of wood for such as were entitled to them.

Attachment
Rolls, *passim*.

They also marked with the broad arrow, spear trees which were not to be pollarded; cut timber or trunks of dead pollards (called wholves) for the construction and repair of foot-bridges, and of gates and gate-posts, in their districts in the Forest, and for other like purposes; and when necessary lopped branches for the shelter of the deer in hard weather.

To the woodward belonged by ancient custom all wind-fallen wood.¹ In Waltham Forest the King's woodward had the right to take dead or decayed wood for fuel for his own use and not for sale; but the broken and wind-fallen wood in Havering Park was claimed by Henry de Cokyntone, the Steward of the Forest, in the 13th century.

15th Rep. of L. R. Com. 1793.
Treas. of Rect. For. Rolls, Essex, No. 2. 20 Ed. 1.

A hatchet was formerly the symbol of the woodward's office², and it was his duty at the Justice Seat to deliver it upon his knees to the Chief Justice. The record at the Justice Seat of 30 September, 1670, that Thomas Tompson was fined 1*l.* for an ill hatchet, probably refers to an irreverent performance of this duty with a dirty or broken weapon.

Sir W. Jones' Rep. 266.
Plac. For. 22 Car. 2. Exch. Treas. of Rect. County Bags, Essex, No. 8.

15th Rep. L. R. C. 1793.

In the 18th century, the instrument used was described as a marking hammer, and by delivery of it the office was conferred.

THE REEVES.

The Reeves, as has already been said, were originally parish officers, who, probably after the Conquest,

¹ The Latin version of the *Rectitudines Singularum Personarum* runs: "Wudeward; id est custodi nemoris vel forestario, jure cecidit lignum omne vento dejectum." This also shows that the same meaning was given to the words "woodward" and "forester." The Anglo-Saxon text only contains the word "wudeward."

Lond. Gaz. 1852, p. 3857.

² In the New Forest, according to the claim of the lord of the manor of Minestead, the symbol was a horn; and the duties seem to include those of a forester.

became sworn officers and subject to the jurisdiction of the Forest Courts, although they were still nominated by the parishes, and performed duties in which the parishioners as such were chiefly interested.

In the 12th century, a reeve (*præpositus*) and four men from each vill were included among the persons directed by Richard I. to be convened by the Justices itinerant of the Forests, to hear the precepts of the King. But they are not mentioned at the Court of 1250.

Hoveden, An.
1198.

Cotton Roll
xiii. 5.

The earliest of whom I have found any notice was William de la Hache, Reeve of Chingford in 1222; and in 1277, Stephen, Nicholas, Gerard, and Reginald, under the title of *præpositi* or provosts, were Reeves for Tolesbury, Langho (Langenhoe), Tolleshunt, and Ongar, which were then within the Forest.

St. Paul's
Domesday,
Chingford.
Plac. For.
5 Ed. 1.

In 1489 (4 H. 7), at the Justice Seat, and in 1594 (36 Eliz.) at the Swainmote, we have the names of the reeves in many of the Forest parishes; each reeve being then and thereafter recorded to have been summoned to the Court, with the fourmen who assisted him.

Duch. of Lanc.
Misc. Rec.
Swainmote,
36 Eliz. Bodl.
Lib.

The seventeen parishes, the reeves and fourmen of which were summoned in 1489, were—

Stratford,
Woodford,
Wansted,
Leyton,
Walthamstowe,
Loughton,
Theydon Boys,
Lamborne,
Chigwell,

Stapleford Abbots,
Navestock,
Waltham,
Nasing,
Epping,
Chingford,
Barking,
Dagenham.

F.

N

The list of 1594 contains only thirteen parishes, Stratford, Loughton, Stapleford Abbots, Navestock, and Dagenham being omitted, and Woolhamstone Hall being added.

Ch. For. Proc.
6 Car. 1,
No. 130.

In the record of the Justice Seat of 1630, the names of the fourmen and reeve of "each villate within the Forest" are set forth. The number of the villates was seventeen, and the list corresponds in this respect with that of 1489; but Stratford, Navestock, and Chingford are omitted, and Roydon hamlet, Little Ilford, and West Ham are added. The last no doubt represented Stratford, and Chingford was omitted by mistake: as it appears in the Swainmote list of 1631, which in other respects agrees with that of 1630, as does also the Swainmote list of 1634.

Ch. For. Proc.
7 Car. 1,
No. 140.
Id. 10 Car. 1,
No. 140.

Peramb. 1301.

Ch. For. Proc.
Waltham,
6 Car. 1.

Ch. For. Proc.
Waltham,
7 Car. 1.
Id. 10 Car. 1.

Little Ilford was partly within and partly beyond the Forest; the former part was so thinly inhabited in 1630, that only two fourmen were returned as assistants of the reeve; and in 1631 both these persons had left the Forest. In 1634 it is recorded that except the reeve there was no other inhabitant of the villate within the Forest, to avoid the burdens of which the people had no doubt migrated to the other parts of the parish.

The list of parishes which sent reeves and fourmen to the Forest Court, and the inhabitants of the Forest parts of which claimed common on the Forest wastes, stood thus in 1634—

Waltham Holy Cross,
Dagenham,
Woodford,
Chigwell,

Stapleford Abbots,
West Ham,
Little Ilford,
Chingford,

Barking,
Epping,
Theydon boys,
Walthamstow,
Roydon hamlet,

Lamborne,
Nasing,
Leyton,
Wansted,
Loughton.

In and after 1803 the list is nearly the same; but Navestock is added, Little Ilford omitted, and Broadley put in the place of Roydon hamlet. As Broadley is not a parish, it was probably the place where the reeve lived, and was inserted by mistake instead of the district for which he acted. It was omitted in the list of 1812, and in those which followed, Roydon being restored, and the number of parishes being reduced to seventeen by the omission of West Ham; the reason of which was, that the lord of the manor of West Ham alleging that Ham Frith, part of the manorial waste, was "now disafforested," took upon himself to appoint a reeve or bailiff, with power to mark with the following device—

Attachment
Rolls,
25 July, 1803.

Man. of West
Ham, Court
Rolls, 18
April, 1808.



the cattle of the persons having a right of common thereon, and to distrain and impound those found trespassing.

Attachment
Roll, 23 April,
1723, 12 Oct.
1789.

Id. 29 April,
1721, and
passim.

Id. 29 April,
1725.

Id. 29 June,
1745.

Id. 21 June,
1790.

The Reeves were nominated by the vestries of the Forest parishes for which they acted, and were presented at one, and approved by the verderers and sworn at the next Court of Attachments, which by a special order directed that this course should be observed. This, however, was not always done: a reeve for Epping having on one occasion been sworn upon the certificate of a great number of the inhabitants of Epping, and without presentation by the vestry; and a reeve for Barking, at another time, only on the recommendation of Mr. Bamber Gascoyne, one of the verderers.

Attachment
Roll, 26 Jan.
1725-6.

The oath of the Reeve ran as follows:—"You shall swear that you will well and truly execute the office of a Reeve in the parish of . . . in the Forest of Waltham; you shall drive and assist the Foresters in driving the Forest, as often as the laws direct or you are thereunto required; you yourself shall not surcharge, nor see or suffer any person to surcharge or put any uncommonable cattle upon the said Forest, but you shall be of good behaviour yourself towards Her Majesty's wild beasts and the vert of the same Forest; you shall not conceal the offence of any person whatsoever either in vert or venison, that shall be done within your charge, but shall present the same at the next Court of Attachments or Swainmote which shall first happen to be holden for the same Forest. And you shall to the uttermost of your power maintain and keep the assise of the Forest; and in all things the Queen's right defend concerning the same, so long as you shall be Reeve there."

It will be observed that the oath is exclusively directed to the performance of those duties which concerned the Crown; it specifies the driving and the prevention of surcharges of the Forest, but takes no notice of the duties of the Reeve to the commoners, *viz.*, the marking of their cattle, which pastured upon the wastes of the Forest, or the driving of the pastures.

The Court of Attachments, however, exercised full power over the Reeves, and their assistants the fourmen, (who were also sworn) in all their duties. It gave them directions as to the driving of the Forest, marking the cattle, bringing in accounts of the cattle marked, and other matters; it summoned them to answer for neglect of duty, and fined or dismissed them for misconduct, requesting the parish in the latter case to nominate another person to fill the vacant office.

Attachment
Roll,
17 May, 1715;
12 March,
1723-4;
26 May, 1739;
13 April, 1741;
13 July, 1741;
11 June, 1748;
29 June, 1801;
24 Aug. 1801;
16 Sept. 1805;
31 July, 1809.

The driving of the Forest pastures has time out of mind been part of the duty of the Reeves, who, still bearing the title of parish reeves, drive the wastes of Waltham Forest, just as the swain reeve did those of Mercia a thousand years ago.

Cod. Dipl.
219.
Cart. Sax.
386.

There is no very early mention of the driving in the Waltham records; but that it was an ancient custom in 1630, is shown by the presentment made by the Regarders in that year, another part of which affirmed the right of common of pasture on the Forest wastes. "Wee saye and p'sent that it hath byn the Ancyient Custome of the Forrest to bee Driven twice every yeare by the Officers of the said Forrest, to avoyde Forrainners cattle, For y^t it may not be surcharged."

Ch. For. Proc.
Waltham,
6 Car. 1,
No. 44.

32 Hen. 8,
c. 13.

Attachment
Roll.

The entry also shows that the driving was not done under the statute of Henry VIII. for improving the breed of horses, which required Forests and other wastes to be driven yearly, at or soon after Michaelmas, or as often as should be thought fit. The beginning and end of the fence month were in later years made the times for driving. Fifteen days before Midsummer is called the usual time in an order made on the 17th May, 1715, and that time and the end of the fence month are fixed by the modern driving warrants which were in the form set out below.¹

Memorandum
of Reeves'
Charges,
Waltham For.

Double fees (*i.e.*, 2s.) were charged for impounding cattle during the fence month, viz., from 12 at night on 21st June to 21st July. Sixpence per mile was payable

¹ "To all Verderers, Foresters, Regarders, and other officers of Epping Forest part of the Forest of Essex, otherwise called the Forest of Waltham in the County of Essex.

Whereas by the Forest laws for the preservation of the wild beasts with their Fawns the Forest ought to be driven yearly 15 days before Old Midsummer day, and 15 days after. These are therefore to require you to assign a certain day for the driving of the said Forest, and to give notice to all officers and others concerned in such drifts to give their assistance, and also to the owners of such beasts and cattle as shall be found then coming upon the said Forest to come and challenge their beasts and take them away, or else to seize them as strays for the use of the Warden. And for your so doing this shall be your sufficient warrant.

Dated this day of .

——— Warden.

N.B.—The day of is the Driving day.

To

Reeve, Loughton."

for driving to the pound ; 2s. 6d. when the beasts were taken to the manor pound ; and always 1s. per day for keep. After being seven days in the manor pound, the beasts were cried in the three market towns of Romford on Wednesday, Waltham Abbey on Tuesday, and Epping on Friday, at a cost of 1s. each and expenses. If not owned, they were to be advertised when they had eaten their heads off, in the Chelmsford and Hertford papers, and then sold by auction at Romford Market.

The duties of the Reeves as to the marking of the cattle on the Forest wastes, are so closely connected with the rights of common of pasture, that I have thought it more convenient to describe them in the chapter relating to that subject.

THE BEADLE.

Wilkins, 372.
Ch. For. 9
H. 3, s. 7.

There is not much notice of the Beadle of the Forest in the Waltham records, although it is shown by the Forest laws of John and Henry III., which forbad foresters and beadles to make extortions and gatherings in the Forests, that his office existed at an early date. He does not appear among the ministers of the Forest on the Waltham Attachment Rolls until 1770; nor, except "William the Bedel," who was in default at the Justice Seat in 1277, and who was perhaps a Forest beadle, is there any mention of this officer on the rolls before June, 1718; when John Peckover was sworn beadle in the room of Edward Alexander, and at the next Court presented one Jones of Stratford for assaulting and pulling him from his horse, and taking his (Jones') horse out of the pound.

Memoranda
de Foresta.

The beadle and the woodward appear to have taken the same oath, which bound them to present, to the utmost of their power, all trespasses to vert or venison, waif or stray, within their keeping, at the next Court of Attachments.

Richard Hould, who held the office in 1788, in answer to an inquiry by the Commissioners of Woods and Forests, said that his duties were to see that the Forest was not surcharged by cattle commoning without right; to drive the Forest at fence month, and at other

times of unmarked cattle; and to officiate as crier of the Court of Attachments.

Hould was also a Reeve, and perhaps did not correctly distinguish the duties of the two offices. In fact, the beadle also pounded strayed beasts, delivered notices ordered by the Forest Courts to be issued, and performed the duties prescribed by his oath by preventing the unauthorized use of weapons in the Forest, and seizing them if possible; when he did so, the Court usually directed, as in the case of the under foresters, that he might keep them as a reward for his diligence.

Attachment
Roll,
25 July, 1719;
21 June, 1790.

Id. 25 Nov.
1718;
11 Oct. 1746.

CHAPTER IV.

The Wild Deer.

" I am one of the King's hunters.

" How dost thou exercise thine art ?

" I make my nets and set them in an open place, and set on my hounds to chase the wild deer till they come to the nets unawares, and so are entangled ; and I slay them in the nets.

" Canst thou not hunt except with nets ?

" Truly, I can hunt without nets.

" In what manner ?

" With swift hounds I overtake the wild deer.

" What wild deer dost thou mostly take ?

" I take harts, boars, and bucks and goats ; and sometimes hares."¹

1st Inst. 233a.
8 Rep. 138a.
Manwood, F.L.
Gwill. Her.
ch. 14, s. 3.



AGGORDING to the English authorities on forestry, the hart, the hind, the hare, the boar, and the wolf, to which Coke adds the buck, were properly

¹ Colloquies of Ælfric, Tib. A. 3, fo. 61.

The word "bucks" is represented in the original MS. (which is written both in Anglo-Saxon and Latin) by the Anglo-Saxon "pann," and by the Latin "dammas." Sharon Turner makes the former word "pana," and translates it "reindeer," which is not likely to be the meaning, the animals mentioned being, for an obvious reason, such as were commonly known.

Hist. of Ang.-
Sax. Book viii.

Mr. Birch considers the date of the MS. of the Colloquies to be early in the 11th century. As it was therefore written during the life, or soon after the death, of the author, the use of the word "dama," which is commonly taken to refer to the fallow deer, carries great weight.

beasts of forest or venary; and the buck, the doe, the fox, the marten, and the roe, beasts of park or chase. But Coke, in his treatise on the Forest Courts, adds the fox, and the marten, to the beasts of the forest; and says that whatsoever beast of the forest is for the food of man (and therefore the red and fallow deer, the wild boar, and the hare), is venison; but that the roe, because it is no beast of the forest, is not venison, though it be food, and taken by hunting. And it was settled by the Justices and King's Counsel in 13 Edward III. that capreoli (*id est*, roes) are not beasts of the forest, for this curious reason; "*eo quod fugant alias feras.*" But as a general rule these fanciful distinctions were rather matters of woodcraft than of law, and probably varied at different times, and in different forests.

Holinsh. i.
206.
Book of
St. Albans,
fo. 30.
4th Inst. 316.

1st Inst. 233a.

In Waltham Forest neither the fox nor the marten had any higher rank than that of vermyn or raskalls, in which class some of the writers on venary also included the wild cat and the badger, and in some districts the wolf and the hare.¹

The Forest law of Canute made an entirely different division of the wild animals. It states that besides

§ xxvii.

¹ Shakespeare also used the word raskall for a deer out of condition. "As You Like It," act 3, sc. 3.

"The noblest deer hath them as huge as the raskall."

The badger was vermin in law; but it was a trespass to dig him out of another man's land without licence; for, as Justice Dodderidge wisely remarked, "he might have got him out either by smoking him out, or by using of tarriers to get him out." If the justice had lived later he might have added a third way, said to have been used by a gentleman in Norfolk, who, for a wager, drew a badger with his teeth.

² Bulstrode, 60.

beasts of the forest (*i.e.* it seems stags and boars) there were some beasts, such as roes, hares, and rabbits, for the killing of which within the bounds of the Forest recompense must be made; and others, such as oxen, cows, and the like, which, though living within the bounds, and under the care of the ministers of the Forest, could not be considered as belonging to it. Foxes and wolves were neither beasts of the forest nor of venary, and no penalty was incurred for the destruction of them, though it was a breach of a royal chase to kill them within the Forest. The boar, though a beast of the forest, was not usually considered to be a beast of venary.

This last is a remarkable distinction. The fox has, in England, always been held to be noxious, the roe of inferior rank, and the rabbit of little consequence; even the hare has not always had the position given to it by Coke; but the wild boar was, in Norman times, one of the principal objects of the chase; and Coke says that his flesh is as much venison as that of the deer. It must, however, be remembered that the laws of Canute refer¹ to and probably embody laws still more ancient than themselves, and made at a time when both the wolf and the boar were too common and destructive to be the objects of preservation, or of the special care of the foresters.

The wild animals which, according to Fitzstephen's description of London, inhabited in the 12th century,

§ xxi.

¹ "*Crimen veneris ab antiquo inter majora et non immerito numerabatur.*"

the densely wooded thickets of the vast Forest which lay close to the North side of the city, were stags, fallow deer, boars, and wild bulls, or (as one of the MSS. has it) bears; of the existence of which last, however, in historical times, there is no evidence.

The red and fallow deer have for many centuries been the only representatives in the Forest of Essex of those larger beasts of chase which were the principal object of the Forest laws, and of the care of the Forest ministers.

There are no entries about the *Wolf* in any of the records of the Forest of Essex which I have seen. But that it was once common there is shown by the discovery of its remains during the construction of the reservoirs at Walthamstow; and there is satisfactory evidence of its presence in the Forest and in other parts of the county during the historical period, though none of the time at which it became extinct. The boundaries of land in Welde and Ælwarton, granted by Edward the Confessor to Waltham Abbey in 1062, included a "wolf pit" and a "wolf run" or "leap;" and in 1277 there is a presentment for wasting a grove called "Wolvesgrave." The name of the manor of Wolfhamston, in Barking, may also be connected with it.

Transactions
of Essex Field
Club, vol. 3,
p. 6.

Cod. Dipl.
813.

Pl. For.
5 Ed. 1.
Regard of
Colchester.

Among the tenures by which lands were held in Essex and the neighbouring counties was the duty of finding certain dogs for the destruction of wolves and martens, cats, and other vermin. In the reign of Edward III. Thomas Engaine held lands in Pitchley in Northamptonshire, and Sir Thomas de Ailesbury and Katherine his wife at Laxton in the same county,

Blount, 231.
Hazlitt, 245.

Blount, 260.

subject to this duty; and by the service of keeping for the King five wolf dogs (*canes lupararios*) William de Raynes held land in Finchingfield, in Essex, in 13 Edward I.

But it cannot be inferred from these facts that the wolf ran wild in Essex during the reigns of those Kings. The destruction of wolves by Edgar was, of course, not complete; and the natural increase of those which remained, immigration from the northern forests, and possibly, occasional reintroductions for the purpose of hunting, would account for their being sometimes found in England, much later than the time at which they are popularly supposed to have been extirpated. But the evidence of comparatively late grants of land upon the tenure of killing wolves is of very small value, as they were commonly made in the same terms as more ancient grants which they confirmed, or for which they were substituted.

See Holins-
hed, 2. 225.

The remains of the *Wild Boar* are abundant in the peat and shell marl at Walthamstow; and Fitzstephen speaks of it as existing in the Forest in his time; but the Forest records contain no distinct evidence that it survived to a later period. The claim of John Barefoote, lord of the manor of Lambourne Hall in 1670, to hunt and take foxes and all other wild beasts within the Forest, except hogs and deer, was probably copied from a much more ancient claim or grant; but it is interesting, because, on the principle *noscitur a sociis*, it shows the wild boar in its proper position as a beast of forest or venary. In later times there are notices of the finding of deer, dead and devoured by hogs or swine; but these were

Transactions
of Essex Field
Club, vol. 3,
p. 6.

without doubt swine which had been turned into the Forest for the sake of the pannage.

Some remains of the *Roe* were found in digging the reservoirs of the East London Waterworks at Walthamstow, but they were not common; and the animal is not mentioned in the rhyming charter, or in any Forest document which has come to my knowledge. The roe was reintroduced into the Forest in 1884, by the exertions of Mr. E. N. Buxton.

Transactions
of Essex Field
Club, vol. 3,
p. 7.

Id. vol. 1,
p. 58.
Buxton's
Epping
Forest, p. 79,
ed. 1.

The records are also silent as to *Wild Cattle*, though they are mentioned by Fitzstephen. They were not beasts of forest or of venary under the laws of Canute; nor of forest or chase under the Norman laws.

The *Wild Cat*, or *Wood Cat*, is mentioned in several of the ancient Forest claims and grants. The monks of Waltham Abbey were empowered by Richard I. to hunt it, together with the hare and the fox, in Essex and West Waltham; and their successors in title, the Earls of Norwich, and Manchester, lords of Waltham Holy Cross; the Countess of Winchelsea, and Lord Grey of Warke, lady and lord of Epping; the Earl of Norwich, and William Pocock, lords of Sewardstone; Edward Elrington, and John Forest, lords of Theydon Hall, and others, claimed a right to hunt it in 1630 and 1670.

Cartæ An-
tiquæ, 14
March, 1189-
90.

For. Proc.
Chan. Wal-
tham For.
6 Car. 1.

It is possible that the animal referred to may have been the marten, which was recognized as a beast of chase if not of the forest, and is nearly allied, and not much inferior in size, to the true wild cat.

The *Hare* is not mentioned by Fitzstephen, and never seems to have been greatly valued in Essex. Although placed by Canute's law in the same category

Sax. Chron.
A.D. 1087.

with the roe and the rabbit, it was afterwards classed among the beasts of venary, perhaps in consequence of the order of William the Conqueror; who "decreed by the hares that they should go free."

Coke says it is venison, and reminds us of the pre-eminence given to it by Martial:

Lib. 13, Ep.
92.

"Inter aves turdus, si quis me iudice certus,
Inter quadrupedes, gloria prima lepus."

Ch. For. Proc.
6 Car. 1,
Certificate of
Regarders,
No. 71.

Enrolled at
Justice Seat,
21 Sept. 1630.
Ch. For. Proc.
6 Car. 1,
No. 130, m. 18.

But in 1630 no better reason was given for presenting a person for hunting and coursing hares, than that it was "to the general disquieting of the King's deere there." Still less respect was shown to it at the Justice Seat in 1634, at which the grand jury was charged to inquire "whether anie by colour of huntinge the Hare or Fox or other vermn in the Forest wthout lycense, have killed or chased the Deere." And it is also included among the vermin which the holders of various lands were bound by tenure to destroy. Later, perhaps as affording a more easy kind of sport to James I., it was treated as a beast of warren; and in 1611, on the death of John Manwood, the King appointed Anthony Lewes "Keeper of our game of hares, pheasants, and partridges" during his life, in as full and ample manner and form as John Manwood, Gentleman, lately deceased, enjoyed the same, and at the wages and fee of 12*d.* by the day.

There were several claims to hunt and kill it in 1630 and 1670, besides numerous claims of free warren, in which that right was included.

It was the custom of the foresters to distinguish the beasts of forest and chase by particular names, according to their age and sex. Sir Thomas Malory tells us, that of the famous knight Sir Tristram came, as books report, "all the good terms of venary and hunting, and all the sizes and measures of blowing of an horn; and of him we had first all the terms of hawking, and which were beasts of chase and beasts of venary, and which were vermins." Sir Tristram, as the romance says, had in his youth spent seven years in France; and some of the names of the fallow deer certainly bear marks of French origin.

Morte
d'Arthur,
bk. x. ch. lii.
and bk. viii.
ch. iii.

The young of the *Red deer* of either sex, is called in the first year a Calf, the female sometimes a Hind calf; in the second year the male is a Brocket, and the female, according to the writers on Forest law, a Brocket's sister; but at the Swainmote held in Waltham Forest in 1594, she is called a Herst;¹ in the third year the male, according to the forest writers and Gwillim, is a Spayad; and this is the only one of these terms of woodcraft which I have not found in the Forest records: the female in the same year, and ever afterwards, is a Hind. In the fourth year the male is a Staggard; in the fifth a Stag; and in and after the sixth year, a Hart. But if he had been hunted by the King, he became a Hart Royal; and if the King, in consideration of the sport which he had given, had proclaimed that he was not to be hunted again, he became a Hart Royal

4th Inst. 316.
Gwillim,
6th ed. 153.

10 June, 1594.
Bodl. lib.

¹ In Dryden's Notes to Twici the word is written "Hearse."

Proclaimed; but I have found no record of any deer which had attained these dignities in the Forest of Essex.

Nor were any such honours bestowed upon the *Fallow deer*, which were more numerous in the Forest than the red kind. Gwillim speaks of the stag as "a goodly beast, full of state in his gate and view, and among beasts of chase the chief for principal game and exercise;" elsewhere he says, that in the opinion of some authors the attires of gentlewomen's heads were first found out and devised "by occasion of the sight of the horns of this beast,¹ because they are seemly to behold and do become the beast right well." But he speaks with some contempt of the buck, as "a worthy beast, which hath a degree and measure of all the properties of the stag, but cometh far short of his stateliness and boldness."

Heraldry,
6th ed.
pp. 156, 159.

Id. 157.

4th Inst. 316.
Manwood,
ch. 4.
Gwillim,
6th ed. 155.

In the first year, the young of the Fallow deer, whether male or female, is called a Fawn; the male of the second year is a Prickett, and the female, according to the writers on forestry a Prickett's sister; in Waltham Forest it was called a Tegg. The male in the third year is a Sorel, and the female then and afterwards a Doe; the male in the fourth year, a Sore;² in the fifth

Fairholt's
Costume in
England,
3rd ed. 1. 189.
Spectator,
No. 98.

¹ Barcham, the reputed author of Gwillim's Heraldry and a learned antiquary, must be credited with this pleasantry. The book seems to have been written some time before its first publication in 1610. The horned head-dresses, which he ridicules, were prevalent in the 14th, and till the end of the 15th century; but I cannot find that they lasted so long as Barcham's time. About 1700, ladies' head-dresses again "shot up to a very great height," as Addison says; but they do not appear to have been in the shape of horns.

² The reader will remember the play upon the words Prickett, Sorel, and Sore in "Love's Labour's Lost," Act 4, Scene 2.

a Buck of the first head; and in the sixth and afterwards, a Buck or great Buck.

These names had been settled by the end of the 15th century; but they varied at earlier times. At the beginning of the 14th century, although the red deer during the first three years was called calf, brocket, and spayad, Guillaume Twici, the huntsman of Edward II., called it a Art of Hunting. soar in the fourth year, a great soar in the fifth, and a stag of the first head in the sixth; thus giving it one of the names which was afterwards used for the fallow deer only. And, says Gwillim, some ancient writers do Heraldry, 6th ed. p. 153. report that in times past, foresters were wont to call him (*i.e.*, the male red deer) a stag at the fourth year, and not a staggard; and at the fifth year they called him a great stag.

The discovery in the Walthamstow deposits of only one antler (said to be probably recent) of the fallow deer, and the absence of any mention of it in Canute's Laws, support the opinion that it was not indigenous to this country. If it is referred to in the passage cited from the Colloquies of Ælfric, it was probably a well-known wild deer in the English Forests in the 10th century; but it is singular that it should have had no other Anglo-Saxon name than "pan" which appears to have been also applicable, with a slight (if any) variation, to the roe and the goat. The names "buck" and "doe" denote the male and female of these and of several other animals, though they are applied *par excellence* to the fallow deer. The word "fallow" refers to the usual reddish-brown colour of the species, but the Essex deer are of an almost uniform dark-brown tint. These were introduced into the Transactions of Essex Field Club, vol. 3, p. 7. Supra, p. 186.

Transactions of Essex Field Club, vol. 1, p. 81. And see Evelyn Shirley on Deer Parks, p. 9.

Forest, it is said, by James I.; but Mr. Harting produces evidence of the existence of this variety in Windsor Forest in 1465; and if the deer in Waltham Forest before the time of James were of the ordinary colour, it is strange that they should have entirely disappeared.

The hunting and coursing in the Royal Forests of the various wild animals described by Ælfric's huntsman as "wild deer," and of some others, was from very early times forbidden to all but the King, and those who were specially authorized by him, or for his service.

In commenting upon the Forest laws which bear the name of Canute, I have already mentioned the punishments which they prescribed for the offence of chasing the wild beasts.

§§ 1, 9, 12.

See also

Houard, *Cout. Angl.-Norm.* vol. 2, p. 563, cap. xv.

Henry II., in the Assise of Woodstock, forbade transgressions against his hunting or his forests, and warned offenders that they would not merely be held answerable in their goods, but would be punished as in the time of Henry I.; and had his foresters to have no scruple in laying hands upon clerical offenders. For the first and second transgressions substantial bail must be found; on the third occasion the offender's body only, and no pledge, was to be taken.

St. 21 Ed. 1 (1293).

In the time of Edward I., a forester, or persons who aided him, were not to be troubled if, without malice, they killed a trespasser wandering in a forest, park, or warren with intent to do damage, and who, refusing to yield after hue and cry, fled or defended himself with force and arms.¹

Regiam Maj. Leg. For. cap. ix.

¹ By Skene's laws, if a stranger found in a forbidden place in the Forest would swear upon his weapons that he knew not the way to

The Forest records contain but few notices of the hunting in it by the Kings in person; but it is well known, that from the time of Edward the Confessor, and probably much earlier, they frequented it for that purpose. Edward VI., as we have seen, complained of the destruction of the deer in consequence of reports that he intended to disafforest the Forest; and gave notice that he would maintain it as his father had done. Queen Elizabeth also hunted in it, and resorted to the lodge at Chingford, which bears her name; but in her latter years the neglect of the laws again led to great irregularities; and James I. had sat on the throne for hardly a year, when he violently scolded his subjects for their ill-manners in interfering with the sport of himself and his family; and threatened not only to enforce the Forest laws against all stealers and hunters of deer, and to exempt them from his general pardon, but to debar any person of quality so offending from his presence, and to proceed against those who provoked his displeasure by martial law!

Supra, p. 36.
 Delaration,
 Dom.
 Addenda,
 Jas. I, vol. 36,
 p. 451, No. 84.

He had hoped, he said, seeing his subjects knew how greatly he delighted in hunting, that none would have offered offence to him in his sports; gentlemen of the better sort had behaved as those who knew their duty, but not some of the baser sort; there had

have been forbidden, and knew not the right way, the forester was to convoy him to the common way, and there suffer him to pass away without trouble. But if he were a "knawin man," he was to be taken and conveyed to the King's castle; and there without the port of the castle, the forester before witness was to take his "upmaist cloth"; and all which was in his purse was to pertain to the forester; and his body was to be delivered to the constable or porter, to be kept at the King's will.

been more offences since his last coming forth to his progress than even in the late Queen's time, when, her years being less fit for recreation, the game was less carefully preserved; such offences showed insolence and want of reason; and he wondered, seeing he had shown his maintenance of the laws of the realm, that they should think he would not enforce the Forest laws, which were as ancient and authentic as the Great Charter.

Some entries on the Court rolls show that James' successors sometimes hunted in the Forest; but they ceased to do so for many years before the disafforestation.

It was the practice in modern times to issue warrants to the foresters to supply such venison as was required for the use of the Sovereigns or their friends, or for the accustomed fees to the Forest officers. But at an earlier period the Kings employed servants, such as the hunter who figures in Ælfric's Colloquies, to assist them when they hunted in person,¹ and to go to the numerous Royal Forests with attendants, horses, and hounds, for the purpose of obtaining the necessary supplies of venison.² It was doubtless one of the great causes of complaint against the early Kings, that these officers were quartered during the close times sometimes upon the landowners

Sports and
Pastimes,
ch. 1.

¹ An account of the arrangements for a Royal hunting from a MS. called "The Maister of the Game," written for the use of Prince Henry, son of Henry IV., will be found in Strutt.

7 H. 3, Close
Rolls, 564.
(R. C.)

² For example: "The King to Hacon de Hathelakeston. We command you that the venison which Master Guido and his fellows, our hunters, took in your bailiwick, you send to us without delay in good and strong waggons."

and sometimes upon the sheriffs of the counties, who were directed to supply them with necessaries and allowances; in the case of the sheriffs at the cost of the Exchequer; but commonly without any such direction for the benefit of private persons; who often held their lands subject to obligations of this kind. Four or five hunters would sometimes be sent, with several horses, and forty or fifty hounds and their attendants; and if these people deserved the evil character given by John of Salisbury to all hunters, the burden and annoyance which they caused must have been very great. They smelt, he said, of the Centaurs; seldom was one of them found who was courteous, steady, or chaste; never, as he believed, one who was sober.

See Close
Rolls temp.
John, 7, 15,
16, 17, 18;
H. 3, 3, 6.

Policraticus,
lib. i, cap. iv.

But the service was ill-paid, and was not free from danger. When Ælfric's huntsman was asked what the King gave him in return for the venison which he brought, the answer was, "He clothes and feeds me, and sometimes gives me a horse or a bracelet, that I may the more willingly exercise my art."

Colloquies,
Tib. A. 3,
fo. 61b.

Grants of deer to be taken yearly, were sometimes made. The Knights Templars enjoyed such a right by grant of King John, to take by view of the foresters three stags yearly in the Forests of Essex or Windsor. A similar grant was made by Richard II. to Nicholas Morice, Abbot of Waltham Holy Cross; and the Abbot is said to have been entitled to fee deer in the time of Henry VIII. In 1630, 1670, and 1714 the lord of the manor, as the Abbot's successor, claimed under this right, and was allowed three bucks of good season in summer yearly at the Feasts of the Reliques (July 11),

Charter Rolls,
1 John. (1199)
memb. 33
(R. C. p. 3).

Pat. Roll,
2 R. 2, pt. 2,
m. 15.
For. Roll.
Harl. Roll,
C. C. 12.
Claim of Earl
of Norwich,
For. Proc.
Waltham For.
6 Car. 1.
Claim of Earl
of Manchester,
do. 1670.
Attachment
Roll, 28 June,
1813.

of St. Augustine (May 26), and of the Exaltation of the Holy Cross (September 14¹), and three does in the winter season yearly, as fee deer.

Attachment
Roll, 28 June,
1813.

But the claim was refused in 1813, on the ground that the warrant of 1714 was not entered on the rolls of the Court, and was only personal to the then Abbot.

Duch. of Lanc.
Misc. Rec.
For. of Wal-
tham, 4 H. 7.
Claim of
Abbot and
Charter.

The Abbot of St. Mary, Stratford, had a similar grant during his life from Edward IV. of two bucks in their season, and two does in their season, to be taken within the Forest of Waltham.

For. Roll,
8 Dec. 1589.
Harl. Roll,
C. C. 12.

The Lady of Barking (the Abbess) and the freeholders were also entitled to fee deer in the time of Henry VIII.

Sometimes, also, a right was granted to take a certain number of live deer. Roger de Bigod had a grant of forty deer in the Forest of Essex from King John, one of the King's foresters being ordered to be sent with him until he had taken them; and in the next year William Bishop of London was allowed by gift of the King, to take twenty deer and two stags. The Bishop of Ely had a similar licence to take from the Forest of Essex ten deer and two stags, which had been given him by the Lord Richard; it seems there was a scarcity of them at that time, for it was added, that because it might be difficult to take them in that Forest, he might take them in the Forest of Rockingham, unless he had already taken them in Essex. Another grant in 1225 to Thomas de Muleton, was of ten does and one

Cl. R. 14 John,
R. C. p. 123.

Cl. R. 15 John,
R. C. p. 146.

Cl. R. 9 H. 3,
R. C. p. 61.

Cl. R. 10 H. 3,
R. C. p. 89.

¹ These are the nearest feasts to the end and the beginning of the fence month; and the end of the season for hunting the buck.

buck to place in his park at Kelvedon; and one of the same kind was made by Richard II. to the Abbot and Canons of Waltham.

Pat. Roll,
2 R. 2, pt. 2,
m. 15.

Licences were also granted to keep hounds and to sport in the Forests; but limited as to the number of hounds, and to the hunting of the inferior kinds of game—usually the fox, the hare, and the wild cat. In 1200 King John notified to Albrecht de Ver, the warden, that he had granted to Richard Gosfield and his heirs the right to have eight brackets, and one male and one female harrier in the Forest to take such game; and in subsequent years, the son of the Earl of Arundel, and John Juvenis, Steward of the Abbey of Waltham, had grants—the former, of the right to hunt hares, and the latter, hares and foxes in Essex. The grants by Richard I. and Henry III. to the Abbot and Canons of Waltham, to take the hare, the fox, and the wood cat, were the foundation of their claims to hunt made in 1323-4, and 1489; which were repeated by their successors, the Earls of Norwich and Manchester, William Pocock, and the Countess of Winchelsea and Lord Grey of Warke, in 1630 and 1670.

Close Roll,
1 John, p. 49,
R. C.

Id. 1212-13.
14 John,
p. 129, R. C.
1215.
15 John,
p. 140b, R. C.

Plac. For.
5 Ed. 1, Exch.
Treas. of Rect.
County Bags,
Essex, No. 1.
Plac. For.
Charter Roll,
Exch. Treas.
of Rect.
17 Ed. 2,
Charter Roll.
Duch. of Lanc.
Misc. Rec.
Essex, For. de
Waltham,
1489.

The Abbess of Barking had dogs and harriers coursing in the Forest in 1292, under an ancient charter. The Bishop of London and the Dean and Chapter of St. Paul's claimed a right for the Bishop to hunt with his dogs, the hare, the fox, and the cat, as he passed through the Forest; and claims were made by Thomas of Huntercombe, of a right of free chase through the whole Forest, with two greyhounds and four hounds; and by George Rodney, lord of the manor of Waltham-

Treas. of Rect.
For. Rolls,
Essex, No. 2,
20 Ed. 1.
Id.

stow Toney or High Hall, to hunt with eight harriers and twenty brackets; the claims being limited to the taking of the hare, the fox, and the cat, except that the last also included the badger. Several of the monasteries and other landowners had also ancient grants of free warren, claims to which were made by many of the lords of manors in 1630 and 1670.

Rep. of Coal,
Corn, and Fin.
Committee,
July, 1875,
p. 7.

Hist. Charters,
&c. of City of
London,
No. III.

Id. Nos. V. &
XV.

A right of hunting in the Forest traditionally held to belong to the Corporation of London, and to have been exercised yearly on the occasion of the Epping hunt, was claimed by the Corporation before the Epping Forest Commissioners; but no documentary evidence could be found to support it, although careful search was made among the City records. The charter of Henry I., the earliest which conferred hunting rights upon the citizens, and the only one which defined them, limits them to the chaces enjoyed by their ancestors in Chiltre (Chiltern), Middlesex, and Surrey. And the confirmations by the first charter of Richard I. (1194), and by the fourth charter of Henry III. (1227), contain no mention of any right to hunt in Essex.

In the 18th and 19th centuries the power of granting sporting licences was exercised by the Chief Justices of the Forest. Their licences gave a right to take all beasts and fowls of forest, chase, park, or warren (red and fallow deer only excepted), with moderation, so as not to prejudice the King's vert or venison; and were required to be entered on the rolls of the Court of Attachments.¹ Either the granting of the licences by

Claim No. 48,
Bundle K.

¹ According to a claim made by Thomas Bingley in 1850, the sum paid for a licence to sport from the Chief Justice was twenty guineas.

the Chief Justices was thought to be an innovation, or the restrictions on their use were not regarded; for in 1720, several of the master keepers complained at the Court, of abuses and great destruction among the deer by people claiming a right of shooting under licences granted by Lord Tankervill when Chief Justice; and a representation was ordered to be laid before him. And in 1722-3, another representation upon the same subject was ordered to be laid before Lord Cornwallis, then Chief Justice. But these remonstrances appear to have had no effect in lessening the number of grants; for in the same year seventeen licences were granted, and twenty-one in 1724. In 1726, eleven licences granted by Lord Tankervill, and forty-eight by Lord Cornwallis, were running; and though the numbers presented at the Courts were less for some years after, 158 were found to be in force in 1737. During the next twenty-five years the average yearly number granted was less than five; and in three decennial periods after 1769, less than three. In the last of these (1802), appear among the licensees the names of Louis Joseph de Bourbon Prince of Condé, and the Duc de Bourbon, the only persons of title on the lists.

Attachment
Roll, 1720.

Id. April,
1722-3.

Attachment
Rolls.

Id. 1737.

Soon after this time, foxes were included in the excepted game. In 1815 some difficulty was raised about the enrolment of a licence granted by Chief Justice Grenville, and from this date to the abolition of his office, when the power of granting licences fell into the hands of the Commissioners of Woods and Forests, very few licences were brought for enrolment.

Attachment
Roll, 10 Aug.
1812.

§ xxvi. The provisions of Canute's Forest law as to the
Sup. p. 64. penalties incurred by all, except bishops, abbots, and
 § xxxi. thanes, who killed or hunted wild beasts in a Royal
 Forest, have been already mentioned. Another clause
 forbad the *mediocres* to keep greyhounds, but allowed
 freemen to do so when the dogs had been hocksinated
 in the presence of the chief ministers of the Forest.
 § iii. As the *mediocres* themselves were freemen *virtute officii*,
 the restriction was obviously designed to prevent them
 from abusing their trust as keepers of the game.

Assisa de Foresta, H. 2,
 § 2. Hoveden,
 2. 245 (M. R.
 Ser.). Assis.
 Reg. Rich. I,
 de For. *Id.* 4.
 63; Wilk. 351.
 .
 Assis. H. 2, § 9.
 R. I, Wilk.
 351.
 Assis. R. I,
 Wilk. 352.
 Wilk. 372,
 Ch. For. § 10.

It was forbidden by Henry II. and by Richard I.
 that any should have bows or arrows,¹ dogs or hounds
 (leporarios) in his forests, save by licence of the King,
 or of some person able to grant a licence; the offender
 being *in misericordia Regis*. No cleric might offend con-
 cerning the King's hunting; the foresters were enjoined
 to take those who did so into custody.²

Offenders who hunted in the Forests were by the
 law of Richard punishable by loss of their eyes and by
 mutilation. But the supposed charter of John and that
 of Henry III. declared that none should lose life or limb
 for the King's hunting, but that any one convicted of

Reg. Maj.
 Leg. For.
 cap. 17.
 Houard, Cust.
 Angl.-Norm.
 vol. 2, p. 573.

¹ A passage in Skene's Code shows that its framers objected to the
 carrying weapons more than to the mere act of hunting in the Forest.
 Whoever shall follow his hounds, running at any beast from his own
 land into the King's Forest, he shall lay aside his bow and arrows; or he
 may bind the bow and arrows with the bowstring; and if the hound
 slays the beast, he with his hound and the beast shall pass away quit
 and free, but (*i.e.* without) any challenge of the King or the lord of
 the Forest.

Kar. Mag.
 Capit. cxix.
 A.D. 802.
 Baluzius, I.
 369.

² A law of Charlemagne declared that bishops, abbots, priests,
 deacons, nor any other of the clergy, presume to keep hunting dogs,
 or hawks, falcons, or sparrow hawks.

taking venison should be heavily fined if he had any possessions, and if not, should be cast into prison for a year and a day; and should then find pledges or abjure the realm.

The abjuration was made before the coroner in the following form:—"Master Crowner, heere you this; that I have offended our Sovereigne Lord the King in his venison; for which cause I abjure the realme of England, and hereafter I shall never return into it againe without the leave of our Sovereigne Lord the King. So God help me and those holy Saints."

Book of Oaths,
1649, fo. 296.

Something of the same indulgence which was given by Canute's code to the great ecclesiastics, in respect of the observance of the Forest laws, was extended by the charters of John and of Henry III. to Archbishops, Bishops, Earls, and Barons; who, while passing through a Royal Forest as they came to the King at his command, and as they returned,¹ might take a beast or two by view of a forester, if any were present; otherwise they were to sound a horn, lest it should seem to be done secretly. This provision is also in Skene's Forest code, and was probably brought into England from Normandy. In the Forest of Arduenna (Ardenne) the liberty of hunting in passing through the Forest was in force in the 9th century, but was not restricted to the occasions when the nobles were on their way to or from the King.

M. Paris.
Chron. Maj. 2.
598 (M.R. S.),
Wilk. 371.
Ch. For. § 11.

Reg. Maj.
cap. xix.
Houard, Cout.
Angl.-Norm.
vol. 2, p. 571.
Capit. Car.
Calvi, A.D. 877,
tit. 43, c. 32.
Baluzius,
vol. 2.

The sounding of a horn to give notice of the death or capture of the deer was an ancient and general

¹ See note at p. 71, *supra*.

custom. It was followed, according to an old ballad, by Robin Hood.

A lytell geste
of Robyn
Hode.

“Robyn slewe a full grete harte,
His horne then ’gan he blow;
That all the outlawes of that Forèst
That horne coud they knowe.”

Art of Hunt-
ing.

Book 4, ch. 6.

The call known as the “prise”¹ or “prize” was, according to Twici, that which was proper on the taking of the hare or the buck; and four “mortz” on the taking of a hart. But in *Morte d’Arthur*, when the King had killed a hart, the author says, “Then King Arthur blew the prise, and dight the hart.”

Duch. of Lanc.
Misc. Re-
cords, 9 H. 7.

It was also the duty of a person who killed a deer, or found one dead in the Forest, to sound his horn, so that it might be shown on the spot that he was not guilty of a breach of the Forest law.² This explains an entry in the roll of the Essex Swainmote held at Buckhurst Hill in 1495, that “the kep fand a sowyr (soare) dede in Chyngeforde hawe, the iiij day of Auguste; and the keper bleu for the wodewarde, and no mane wold anseure.”

Ruffhead’s
Stat. App.
p. 25,
Cotton MS.
Vesp. B. 7.

Another duty was thrown upon the finder of a dead or wounded wild beast by the Assises of the Forest, supposed to be of the time of Edward II. An inquisition

Lond. Gaz.
1852,
pp. 3857-8.

¹ For remarks on hunting music, see notes to Dryden’s *Twici*.

² The lord of the manor of Minestead, in the New Forest, claimed in 1852 that his woodward should have a stag yearly in summer, and a hind yearly in winter, to be killed by him yearly in the same manor, and to give notice thereof to the keeper of the Forest by a blast of his horn.

was to be made by four of the nearest vills in the Forest,¹ and was to be entered on the roll, and the finder was to provide six pledges. The flesh of the deer was to be sent to the nearest lepers' house, if by the testimony of the verderers and the county there were any near; if there were no such house near, it was to be given to the poor and infirm; the head and skin to the freemen of the next town, and the arrow, if any should be found, was to be given to the verderer and entered in his verdict.

The manner in which these good intentions were construed by the Forest officers may be inferred from the remark of Manwood or his editor, that this ordinance must be intended of such deer which are not sweet or fit to be eaten by the better sort of people; for if a principal beast is found newly killed, 'tis not intended by this statute that it should be given to an hospital; and if such beast is dead it is the King's deer; for so it was when alive, and the property is not altered by the killing; and in such case the Chief Justice may dispose of it at his pleasure.

Ed. 5, Nelson,
App. 409.

From which we may infer, that epicures had not then discovered the virtues of high venison.

During the troublous reign of Richard II. hunting was used, as it has been at other times, as a cover for political meetings. A statute of 13 Rich. II. sets forth that "divers artificers, labourers, servants, and grooms, keep greyhounds and other dogs, and on the feast days, when

C. 13.

¹ In Skene's version the inquisition was to be made at the next Reg. Maj. Court; and the arrow is given to the Justitiar.

good Christians are at church hearing Divine Service, go hunting in parks, warrens, and conyngers (rabbit warrens) of lords and others, to the very great destruction of the game, and at times (a la foitz), under such colour, make their assemblies, conferences, and conspiracies to rise and disobey their allegiance;" and then ordains that no artificer, labourer, or other layman, who has not lands and tenements to the value of 40s. per annum, nor any priest or other clerk if he be not advanced to the value of 10*l.* by the year, shall have or keep henceforth any greyhound, hound, nor other dog to hunt; nor shall they use fyrets, hays, nets, harepipes, nor cords, nor other engines¹ for to take or destroy deer, hares, nor conies, nor other gentlemen's game, upon pain of one year's imprisonment. It was under this Act, that in 1594 a presentment was made against several purlieu men for killing "one red deer, being a herst, upon the 24th day of June being Sondaye in the morninge about xi of the clock in the same morninge in the service tyme, at Wield side plaine, being purliewes belonging to the fforest of Waltham."

Swainmote,
Bodl. Lib.

§ 16.

Capitula ex-
cerpta ex lege
Longobard.
ch. v. Car.
Mag. A.D. 801.
Baluzius, I.
349.

Hunting by night, both within and without the Forest, wherever the King's beasts frequented, or had or had been wont to have peace, was forbidden by the Assise of Woodstock, under pain of a year's imprisonment, and fine and ransom at the King's will. Many complaints were made of this offence, which, together with the practice of hunting with the face hidden, or covered

¹ That no one presume to lay snares in the demesnes, forest, or any other Royal place.

with hood or visor, or painted or disguised "to the intent he would not be known," was also forbidden in the time of Henry VII.

1 H. 7, c. 7.

Turberville, the author of the "Noble Art of Venerie," seems to have taken particular pleasure in hunting by night, and to have feared that too much confession would not be good for his soul. He says, "There is more art to be used than in any course els. But because I have promised my betters to be a friend to al Parkes, Forests, and Chaces, therefore I will not here expresse the experience which hath been dearer unto me particularly, than it is meet to be published generally."

There is an entry on this subject in the Essex rolls at the Court of 1292, to the effect that Sir John de Tracy, Knt., and others, one being the Steward of Sir Richard de Tany, came into the Forest of Wyntre at night, on Sunday next after the Exaltation of the Holy Cross (14th September) in 13 Edward I., with bows, arrows, nets, and mastiffs, and hunted through the whole night, and stretched their nets, and took wild animals; and thence returned to the house of John de Tracy with the venison and their malefeasance. And Richard de Tany knew of the wrongdoing of his afore-said servants.

Treas. of Rect.
For. Rolls,
Essex, No. 2,
20 Ed. 1.

There are many other examples of the offence of unlawful pursuit of the deer, both by day and night. In 1333 the Earl of Chester, with certain of his household; Master John de Eversdon, Dean of St. Paul's; John de Rollesbury, groom of the same Master John, and others

Treas. of Rect.
Misc. For.
Rolls, B. 153,
Roll 36.

Duch. of Lanc.
Misc. Rec.
9 H. 7,
Swainmote.

of his household; and Richard the Chaplain, lately dwelling with Thomas de Haselyntine, Rector of the Church of Theydon Boyes, are accused of hunting in the Forest with their dogs and harriers after stags and hinds, and chasing the same from their haunts; and in 1495, Edmonde Coyre, the King's footman, and Gylbert Lambert, groom of the King's chamber, several husbandmen and a servant, William Brekyll a merchant of London, and another Londoner, killed deer without warrant; but "a buke scleyn for the meir of London," and another slain by Bolday, one of the clerkes of the Chauncery, were both killed by warrant.

Swainmote,
36 Eliz.
Bodl. Lib.

In the 16th century the poachers were very numerous and bold. In 1594 a father and son named Dimsdale, and one John French, all of Woodford, were great offenders. One or both of the Dimsdales stood up at night with a crossbow, at a corner in the Forest, while French "fetched the wanlace," that is, drove the deer towards his companions. On one occasion the three went to Chigwell hills, where William Dimsdale (the father) "killed a hynde at stalke."

Id.

Sometimes the poachers and the keepers came to blows. On a night in 1593, when John Porter and others, of Kelvedon, were coursing deer in the Forest, "the keeper's man coming in unto them did chardge them in God his name and the Queen's to stand;¹ then the said John Porter did alight of his horse, and main-teinenge his mastief upon the keap's man, wth a bill did very sore hurt him." On another occasion, it is

Id.

¹ "You are to bid any man stand in the Prince's name."—*Dogberry's Charge*.

recorded that at Collyers Row, a doe was killed in the night, "by four or five of Mr. Anthonie Cook's house, whose names be unknowne, w^{ch} did sett upon some of the keep's men, and wounded them very sore."

Another dangerous practice of the deer-stealers was attempted to be stopped by a statute of William and Mary: speaking of them as lewd, sturdy, and disorderly persons, who confederate together in great numbers, making among themselves as it were a brotherhood and fraternity, whereby, if any of them should be discovered and convicted, which seldom happens, because of their great force and clandestine manner of combination, they, by a common contribution, pay for the persons apprehended the pecuniary penalties; the Act goes on to impose fines for illegal hunting, and imprisonment and the pillory in case of non-payment; and gives power to search the houses of suspected persons, who are made liable to the same penalties if found in possession of venison, the skin of a deer, or "toyls," of which they could not give a satisfactory account.

But the Act failed to stop these combinations; and in the reign of George I., the *Black Act* was passed in order to check deer-stealing and other crimes. Under it many deer-stealers, who, from their habit of blacking their faces by way of disguise, are called "Blacks" in the statute, were convicted and suffered death.¹

¹ The "Waltham blacks" took their name from Waltham Chase, in Hampshire. An account of the confessions and executions of seven of them, by a person who professed to have met them by accident at an alehouse in the chase, is to be found in the "History of Famous High-

See 31 H. 8,
c. 12;
32 *id.* c. 11;
5 Eliz. c. 21;
2 Jas. I, c. 27,
s. 3;
3 *id.* c. 13;
13 Car. 2, c. 10,
down to 24 &
25 Vict. c. 96.

Many other Acts for the prevention of deer-stealing were passed both before and after the Black Act, but the number of them shows how difficult it was to stop the offence.

See Attach-
ment Rolls,
Sept. and Oct.
1719; Nov.
1720; Aug.
1759; June,
1813.

As regards the Court of Attachments, such little power of dealing with the deer-stealers as remained to it after the discontinuance of the Court of Justice Seat, became obsolete; but the verderers occasionally ordered prosecutions under the Act of William and Mary, though with very little effect.

Treas. of Rect.
20 Ed. I, For.
Rolls, Essex,
No. 2.

As to the weapons and other devices which were used for the destruction of the game, the first complaint of the unlawful use of bows and arrows in the Forest, which was forbidden by the law of Richard I., occurs at the Court held in 1292. The misdoers were Richard de Brykyndon of Wantham (Waltham), Reginald "who was then porter of the Abbey of Wantham, and hath now a certain livery at the priory of Hurle, in the county of Berks"; Thomas le Rous of Loketon (Loughton) and Sir Thomas de Ardern, knight, with others then dead. They came into the Forest with bows and arrows and harriers, on Sunday next after the Feast of the Apostles Philip and James, in the fifth year of King Edward (1277), and took five deer and carried away the venison;

waymen," by Captain Charles Johnson, p. 356, ed. 1814. They are also mentioned in White's Selborne, Letter VII.

Rep. of Select
Committee of
1863, Evi-
dence, p. 25.

There were also "blacks" in the Essex Forest down to a late period—persons (said Colonel Palmer, the last survivor of the old verderers) who lived on the Forest; who lived entirely by deer-stealing; very desperate characters.

that is to say, part to the gate of the Abbey of Wantham, which the aforesaid Reginald the porter received; and the men, being asked if the Abbot of Wantham, or the Canons of the same house, were the receivers or knew anything thereof, say they did not:¹ and another part of the venison was carried to London, where is unknown.

Then the prior of Hurle was commanded to cause Reginald to come on the morrow of St. Martin; and Richard and Thomas came, and were adjudged to prison. Afterwards came Reginald the porter, and he, and Richard de Brykyndon, and Thomas le Rous, each made fine; the first one mark, the others 20s. And Thomas de Ardern was pardoned for the King's soul because he was poor. Robert West of Chigwell was sent to prison at the same Court for receiving stolen venison.

In the same year it was found, at the Regard of Colchester, that Richard Bishop of London had dogs and harriers coursing in the Forest, and had taken hare, fox, and wild cat, at his time of coming to his manors in Essex; and the huntsmen and others who followed his dogs, carried bows and arrows in the Forest against the assise of the Forest. And he and his huntsmen were ordered no longer so to do. The coursing appears to have been warranted; for Stephen the Bishop's successor, and the Dean and Chapter of St. Paul's, claimed in 1324 a right for the Bishop, when he should pass through the King's Forest, to take of the King's wild beasts, yet in moderation and without waste. But the carrying of bows and arrows in the Forest by the Bishop's men, and

Treas. of Rect.
For. Rolls,
Essex, No. 2,
20 Ed. 1.

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2,
m. 52.

¹ But it looks very much as if they had attempted to move Reginald the porter out of the jurisdiction of the Court.

by those of the Abbot of Waltham, who were also presented, was in breach of the Forest law of Richard I. The dwellers in the Forest, however, sometimes had licences to keep such weapons. Ralph de Hoodenk and his heirs had a grant by Richard I. of liberty to have bows and arrows in their halls, for defending themselves against their enemies. And in 1323 Thomas of Huntercombe showed a charter to the like effect.

Treas. of Rect.
For. Rolls,
Essex, No. 2,
20 Ed. I,
Charter Roll.

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2,
m. 54.

Harl. MSS.
6839, f. 261.

The grand jury were directed at the Justice Seat to inquire whether the foresters were careful that men went not in the Forest with bows bent, or had any bows, guns, shafts or buck-stalls, or any manner of engines to catch or kill the deer withal; and who had been the setters or receivers of them. And many presentments are found on the rolls, of the use of bows and arrows, crossbows or arbalests, and firearms.

For. of Wal-
tham Swain-
mote, 36 Eliz.
Bodl. Lib.

Ch. For. Proc.
Waltham,
No. 140,
10 Car. I.
Pres. No. 27.

For. of Wal-
tham, 36 Eliz.
Bodl. Lib.

The crossbow was long the favourite weapon, and no less than twenty-five entries of its use occur at the Court of 1594, as against six of the use of the longbow. Some time after the introduction of firearms, there are, in 1630, four presentments for keeping or using crossbows. A complaint of keeping arbalest arrows was made at the Court held in 1634, and I have found no later reference in the records either to long or crossbows, or to arrows, in Waltham Forest.

The first mention of the gun is at the Swainmote of 10th June, 1594, when it was presented that Richard Muffett, servant to Edward Eldrington of Theydon Boys, shott at a buck with a gun at Baker's Brook "the xxiiij day of Julye in the xxxiiij yeare of Her Ma^{ties} raygne;"

and this is almost immediately followed by a presentment for using a "muskett" in the previous year. There are two other entries at this Court relating to the gun, and one to the petronel; and subsequent complaints of the use of both are very numerous.

They commonly end with a statement that the weapon is "noe muskett or such as is used for defence of the realm," an allusion to the "Act concerning Crossbowes and handgunnes," which excepted guns fit for the above purpose from the prohibition against the use of handguns. 33 H. 8, c. vi.

In August, 1750, the rifle is mentioned in the Attachment Rolls, under the name of a screw barrel gun; and there are a few subsequent entries relating to its use.

Besides chasing the deer with hounds, and killing them with arrows, crossbow bolts, and firearms, various unlawful means of destruction were used; and notably by that numerous class who infested the Forest, and who are variously described in the presentments as common hunters by night and day, and as common loggers and poachers.

These people had many devices for killing the deer. They used "engines called wyers;" engines made of ropes; withes; deer hays; buckstalls;¹ and tramel and other nets, one of which is described as a "thief net" For. Proc.
Waltham,
14 Sept. 1630,
Presentment
11.
Swainmote,
1631, Pre-
sentment 7.

¹ There is a story in Farmer's History of Waltham Abbey of the capture in a buckstall, by Sir H. Colt of Netherhall, for the amusement of Henry VIII., of a party of the monks of the Abbey on their return from a stolen visit by night to the nunnery at Cheshunt. P. 77.

Swainmote,
1634,
Presentments
13, 19, 27.
Attachment
Roll, 28 July,
1753.

Swainmote,
36 Eliz. Bodl.
Lib.

baited with bottles, flowers, looking-glasses, &c.; an apparatus designed to practise upon the curiosity of the deer, and which brings to mind the quaint habits of the Australian bower bird.

One man was presented for pitching halters about a grove; another for "hanging a lyne in a creepe-hole to ketch a deer;" another for killing a sorel with a cross-bow in the night out of Thomas Little his house through a loopehole kept open for the same purpose; and another for killing a deer with a bow by means of a "stawking horse;" stalking either with bush or beasts without licence being forbidden by statute.

19 H. 7, c. II.

Swainmote.
Ch. For. Proc.
Waltham,
No. 140,
10 Car. I.
Swainmote,
36 Eliz. Bodl.
Lib.

Of course these operations were for the most part carried on in secrecy, and by night; or, as we are told in one case, "between the dog and the wolf," that is, by twilight. But in 1594, when poaching was very prevalent, James Atkin, of Chigwell, went about it in a very deliberate manner. He employed one Powell, a butcher, to kill a deer with a crossbow from the back of Atkin's own house. "And when," says the record, "the sayd Powell had doon this fact, he acquainted the sayd James Atkyn therewth, who sent two of his servants for the same; whoe conveyed the Buck to the said Mr. Atkin's house, and brake it upp in his kitchen; and Mr. Atkin had the same, and bestowed the one half thereof upon his brother, Thomas Atkin; the other he baked and spent in his own house: the crossbowe and the furniture was the said James Atkin's." It does not appear what the butcher had for his work.

The owners of inclosed parks in the Forest also

made salteries, or deer-leaps; contrivances by which the deer could easily leap into the park over a fence of moderate height, but were prevented from returning by a steep upward slope, and sometimes a ditch, inside the park wall or fence. Four deer-leaps in the pale of Wanstead park, three being against Leyton walk, and the fourth against that of West Hainault, were presented at the Court of 21st September, 1630; and the making of such leaps was the subject of one of the inquiries with which the grand jury was charged at the Justice Seat.

Ch. For. Proc.
6 Car. I.

§ 36.
Harl. MS.
6839, f. 261.

The deer were also thinned by murrain and weakened by cold. In 1489 a great destruction from murrain and other causes is recorded: "*Item* ther is devored w^t swyn, and slayn w^t cures, and smeten w^t arrowes, and dede of murreyn, in the baylewyke of Stratford 86; Ongre 72; Ilford 88; Waltham 70;" and in September, 1495, there are several presentments of the finding both of red and fallow deer "dede of murreyn."

Duch. of Lanc.
Misc. Rec.

On such an occasion in 1615, a proclamation was issued from Theobalds by James I.: "For that great numbers of Deere both Red and Fallow have been destroyed by the last great Frost and Snow, and those that remaine and have escaped the hardnesse of the weather have beene so weakened and surfeited by the extremetie of the colde, so as they will hardly hold out this next Winter," the taking of pawnage, and the surcharge or other wronging of the grounds which might scant them of their feed, was forbidden. The remedy seems to have been effectual, for only three or four years later, Sir Bernard Whetstone in answer to the suit

State Papers,
Dom.
16 Sept. 1615.

Exch. Bills
and Answers,
Jas. I., No. 265.

brought against him by the Attorney-General, in which it was alleged that the defendant had done illegal acts to the exile and driving away of the King's game of deer out of his lands, declared that by his care of the King's deer in his manor and lands of Woodford, the red and fallow deer had so greatly increased, that he and his tenants were forced to give over ploughing and sowing their arable land, of which the greatest part of the demesnes of his manor consisted.

Duke of
Argyll on the
Economic
Condition of
the High-
lands, 19th
Cent. Rev.
1883, p. 187.

When the M'Leods of Skye had lost a great number of their men in the civil wars, and at Worcester, it was agreed by the general consent of the Northern clans, that they should have a respite from war until their numbers should increase. In like manner, when the deer in the Royal Forests became so reduced in number as to endanger the prospects of future sport, it was the custom to put a temporary stop to their destruction.

St. Pap. Dom.
Chas. I,
vol. 384.

Thus in July, 1643, the Earl of Holland, Chief Justice of the Forests, ordered a general restraint and sparing of the deer in Waltham Forest for three years, except by warrant under his hand; by reason of the great slaughter and destruction late made of the deer in the Forest by unruly persons, who take the liberty to kill and dispose of them at their pleasure.

Exch. Treas.
of Rect. Plac.
For. Essex,
No. 8,
22 Car. 2.

About 1668, a further restraint on the killing of deer in the Forest was ordered; and in 1670, Sir William Hicks the Lieutenant was fined 50*l.* for not making it appear that he had published this warrant to the keepers, whereby deer had been killed, particularly for himself.

Again, in April and November, 1722, there were general restraints of the deer and game in the Forest, the first by Lord Tankerville for three, and the second by Lord Cornwallis for two years. And the like was done for one year in 1731; for one year in 1744, by reason of the depredations of deer-stealers; for three years in 1748 in the walks of Wanstead, Woodford, Walthamstow, Chingford, New Lodge, Epping, and Loughton; and for one year as to fallow deer in 1770. Besides that on several occasions, orders were made to kill the deer during certain periods without hunting them.

Attachment
Roll, 26 April
and 13 Nov.
1722.

Id. 29 Nov.
1731.

Id. 13 Aug.
1744.

Id. 17 Dec.
1748.

Id. 28 Aug.
1770.

The early entries relating to either kind of deer in particular are few; but the following comparative table of presentments of deer killed or injured, made at the Swainmotes of 1495, 1594, and 1630, shows that from the 15th century the fallow deer was far the most common in the Forest.

	1495	1594	1630
<i>Red deer:</i>			
Hind Calf		2	5
Brocket	1	1	
Staggard		1	
Stag		5	4
Hart	5	1	
Hind	1	5	2
<i>Fallow deer:</i>			
Fawn	8	21	9
Pricket	2	4	2
Teg	3	4	
Sorel	4	6	1
Sore	3	6	3
Buck	11	20	4
Great Buck		2	
Doe	9	11	3

For. Rolls,
Lansdowne,
R. Charters,
20.

In 1589-90 a record of the deer killed and found dead, shows a still greater preponderance in the numbers of the fallow deer. The presentments at the Courts of Attachments in the 18th century cannot be trusted as evidence either of the actual number, or of the relative proportions of the two kinds of deer in the Forest. According to them, the fallow deer, between 1713 and 1720, exceeded the red in the proportion of about six to one, which may be nearly correct. But the proportions of three to two between 1720 and 1746, and something very near equality between 1747 and 1761, cannot be so, unless the fallow deer during those intervals had been very much reduced. The keepers were probably negligent in ascertaining the numbers.

Buxton,
Epping
Forest, p. 79.

Keepers' Re-
turns, Office of
W. and F.

After the latter date the presentments at the Courts relating to the deer almost entirely ceased. The remaining red deer were sent to Windsor about twenty years after the beginning of the present century, but some have lately been restored to the Forest. The keepers' returns of fallow deer show that in 1792 there were thirty-four brace of bucks in the Forest, fit to serve for warrants; and a series of returns to the office of Woods and Forests show how the fallow deer gradually decreased, and at last almost became extinct in the present century. There were about 212 male and female deer in the Forest in 1846, and 209 in 1847 and 1848. In 1849 there were 223; but only 9 fit for the Queen's service, for which in 1850 no bucks were available. In 1855, after the disafforestation of Hainault, there were 86 deer in Epping Forest, of which 6 were bucks and 31 does, the rest being immature. In June, 1856, there were 75 in all, including

5 bucks and 27 does. In 1857 there were 57, of which 3 were bucks and 19 does; 48, of which 2 were bucks and 20 does, in 1858; 32, of which 2 were bucks and 13 does, in 1859; and in 1870 only 5 to 6 brace of deer and but 1 buck. They were, therefore, nearly extinct when the litigation began in 1871.

The times fixed by the Forest laws for hunting were as follows:—

Coke, 4th
Inst.; Man-
wood; Strutt.

The hart and the buck were hunted from the feast of St. John the Baptist (6th July) to Holyrood day (25th September). The hind and the doe from Holyrood to Candlemas (14th February). And it was on account of this difference in their seasons that the latter were reckoned as beasts of the forest separately from the former.

The fox was hunted from Christmas to Lady-day, the hare from Michaelmas to Midsummer, and the boar from Christmas to Candlemas.

The time when each kind was in season was called its "grease time," and so a hart killed at this season came to be called a hart of grease. The phrase is as old as the time of Richard II., who granted to Nicholas Morice, the Abbot of Waltham, three bucks, "*tempore seisonis de grees*" (Fr.: *graisse*). At the Swainmote of 1634 it was "presented and convicted" that John Noades, Forester of Lucton walk, within the Forest at "grease time," in the summer last past, in the coverts and lawne of the walk aforesaid, at three several times carried with him one weapon, in English a gunn, and for this and another offence he was fined 10s.

Strutt, ch. 1.
Manwood.

Pat. Roll,
2 R. 2, pt. 2,
m. 15.

Ch. For. Proc.
Waltham,
No. 140,
10 Car. 1.

§§ xxxi.—
xxxiv.

By the law of Canute no lesser thane (*mediocris*) might keep greyhounds; but the higher class of officers might do so if the dogs were lawed in the presence of the chief officer of the Forest; or without lawing at a distance of ten miles from the Forest; one shilling being payable for every mile less than that distance, and ten shillings within the Forest. The dogs called *velteres* or *langeran* and *ramhundt* might be kept without lawing. If mad dogs were found wandering in the Forest by the neglect of their owner, he was mulcted in 200 shillings, which was the value of a *mediocris*. If a mad dog bit a wild animal, the fine was 1,200 shillings, being the value of a freeman; but if a Royal beast were bitten the offence was of the highest class.

Assisa H.
Reg. 2, de
For. § 2.
Assis. R. 1.
Wilkins, 351.
Assis. F. R. 1.
§ xiv.
Hoved. Chr. 4.
65 (M. R.
Ser.),
Wilkins, 352.
Cotton MS.
Vesp. B. 7,
fo. 92b.

Harl. MS.
6839, f. 261.

By the Forest laws of Henry II. and Richard I. it was forbidden to have dogs or greyhounds (*leporarios*) in the Forests unless by the authority of the King or other person able to warrant it; he who was convicted of leading dogs through the Forest without a leash was in the King's mercy. And by another Forest law, if a greyhound were found running to the hurt of the Forest, the Chief Forester was to retain it in the presence of the verderers, and to send it to the King or the Chief Justice of the Forest. The using and keeping of dogs by the inhabitants and others in the Forest, was the subject of several of the inquiries which were directed to be made by the grand jury at the Justice Seat.

The dogs most used for taking deer in Waltham Forest, are described as greyhounds and harriers; the records often speak of mastiffs, braches or brackets, stuckle dogs, curs and mongrels; but I have found no

mention of the dog used to start the game which was called by Twici "lymer," and by Caius "leuiner," or "lyemmer," from the collar or thong by which he was held. Caius says he is in smelling singular, and in swiftenesse incomparable; and that he taketh the prey "with a iolly quicknes."

Englishe
Dogges, p. 11.

Greyhounds and brackets are mentioned in connection with the Forest of Essex in a proclamation of Henry III.; and the former are also mentioned in the record of the Pleas of the Forest held in 1489; in 1594, there were twenty presentments about them at the Swainmote.

Close Roll,
12 H. 3, 1228.

Duch. of Lanc.
Misc. Rec.
For. of Wal-
tham, 4 H. 7.
For. of Wal-
tham, 36 Eliz.
Bodl. Lib.

There appears to be some confusion in the records between the greyhound¹ and the harrier, which from the 13th century is also often mentioned. The breed of dog now called the harrier, was well known in the 16th century; for, says Dr. Caius, "Wee may knowe these kinde of Dogges by their long, large, and bagging lippes, by their hanging eares reachyng downe both sydes of their chappes, and by the indifferent and measurable proportion of their making." Yet at the Iter of September, 1630, Thomas Courtman of Loughton was fined £3 6s. 8d. for keeping within the Forest one harrier

Of English
Dogges, p. 3
(1576).

For. Proc.
Waltham,
6 Car. 1.

¹ If this is the dog which Lord Lytton calls the "grehound," he says it was so called from hunting the gre or badger. "Grey," sometimes written "gre," is a name of the badger; but that a dog which hunts by sight, and is bred for speed, should have been used to hunt a rather heavy crepuscular, and nocturnal animal, which sleeps in a hole during the day, passes belief. A badger was probably a "grey" because of its colour (Anglo-Saxon: græg); we still say "grey as a badger." The greyhound may also have had its name from the colour of the ancient breed.

Harold, bk. 4,
ch. 3.

called a greyhound, with which he killed a sorell; and at the same Iter two other persons were fined for keeping in the Forest two harrier dogs, "in English a brace of greyhounds," and for hunting by night in the Forest.

P. 10. The old greyhound was probably a larger and more powerful dog than that which now bears the name, and was more like the present deerhound. In the time of Dr. Caius, the name seems to have been applied to several breeds. He calls it "a spare and bare kind of dogge (of fleshe but not of bone); some are of a greater sorte, and some of a lesser: some are smooth skynned, and some are curled: the bigger therefore are appoynted to hunt the bigger beasts, and the smaller serve to hunt the smaller accordingly."

Benedict of
Peterborough,
A.D. 1191.

Brache, Bracket, or Rache, was a general term for a hound which hunts by scent. The hounds which Richard I. sent as a present to Saladin, consisted of greyhounds (leporarios) and brackets (brassetos); and the chronicler who records the gift, adds that the latter were *odori sequentes*. In like manner we have seen these two classes of hunting dogs constantly coupled together, in the mandates of the early Kings to their subjects to take care of their huntsmen and hounds, and in the licences which they granted to hunt in the Forests. The same thing is found in the apocryphal but ancient charter, alleged to have been made by Edward the Confessor to Randolph Peperking.

Supra, p. 6.

"Four greyhounds and vj Raches,
For hare and fox and wild Cattes."

The word bracket was, however, sometimes specially

applied to the dogs used as pets by ladies. In *Morte d'Arthur*, we read not only of brackets, both black and white, in the sense of ordinary hunting dogs, but also of the little bracket given by Sir Tristram to La Beale Isoud, which "was sent from the King's daughter of France unto Sir Tristram, for great love." It is used in the same sense in *King Lear*. And in both senses by Sir Henry Taylor in *Philip van Artevelde*.

Book ix, ch.
xxi.

Act I, sc. 4.

Pt. 2, Act 2,
sc. 3.

"Down lay in a nook my lady's brach,
And said, 'My feet are sore;
I cannot follow with the pack,
A-hunting of the boar.'"

The Mastiff, probably nearly the same as the mastiff of the present day, is often mentioned at the Swainmote of 1594 and afterwards; but I cannot identify the "Stuckle dogg" or the "Stonhill dogge" which appear in the records of the Iter of 1630. Presentments for keeping mongrels and curs are very numerous throughout the rolls. Two other breeds of dogs are mentioned in Canute's Forest laws, viz., sheep dogs, and others § xxxii. called in Latin "velteres," in Anglo-Saxon "langeran." Veltrarius or Vautrarius (Fr. : vautre) according to Tenures, 233. Blount was a mongrel hound used for the chace of the wild boar;¹ a kindred German word "Welters" signifies a greyhound. Lye translates lang-legera, canis

¹ One of the laws in the Capitularies of the reign of Dagobert I. A.D. 630, is "De canibus veltribus." The Franks at this time had many breeds of dogs. The same laws mention seven others, by the names (probably corrupt) of leitihunt, triphunt, spurihunt, bibarhunt, hapihuhunt, suvarzuvild (this kind was used for bears and wild oxen), and hovauvarth; which last was for protecting its master's curtilage.

Capit. Reg.
Franc. Lex
Bajovar.
Tit. xix.

leporarius. Langeran is doubtless a corruption of Lanlegeran, which is used in the 13th century version of Canute's secular laws as synonymous with vealtris. It certainly was not the "greihund" of Canute's Forest laws, as it might be kept in the Forest without being lawed; nor of his secular laws, if the curious passage in the 13th century version of them, by which a scale of fines is fixed for the destruction of the different kinds of dogs, is genuine. It is there distinguished from the greyhound, and a higher value is set upon it.¹

§ xxxii.

§ lxxxi.
2 Thorpe's
Anc. Laws,
544, note 1.

The mutilation of the dogs of those who lived in the Forests to prevent them from chasing the game, commonly known as the lawing of dogs, was a very ancient practice. In the law of Canute it is called *genuiscissio*, which was probably much the same as the process afterwards known as hamling or hoxing, *i.e.* hocksinewing.

xvii. de Plac.
For. Thorpe's
Anc. Laws, I.
527.

Ass. of Wood-
stock, § 14.

But in the time of Edward the Confessor, if the collection of his laws made in the time of Henry I. may be trusted, the cutting off of the claws called expedition was in use, and this was also directed by the Forest law of Henry II. to be done to mastiffs wherever the King's wild beasts had or had been used to be protected.²

¹ The fines are—for a dog which keeps its lord's sheepfold and drives off the wolf, 6s.; for a greihund which has not yet taken a hare or other game, 40d.; but if it has been broken in, and has taken game, 80d.; for a mysterious dog "qui in pluvia sine alicujus cura vigilat, quem Angli dicunt renhund," 12d.; and for the vealtris, called by the English lanlegeran, 10s.

Baluzius,
I. 394, 963.

² I am not sure whether an obscure passage in the Capitularies of Charlemagne, A.D. 803 (Capit. 3, ch. xviii.), and repeated in those of Charlemagne and Louis the Debonnaire (ch. ccxxxvi.), "De canibus qui in dextro armo tonsi sunt," refers to any form of lawing.

The expedition according to the assise used in the time of Henry III., and then ordered to be followed, consisted in the cutting off three claws from the forefoot without the ball. "The mastive" (says Manwood) "being brought to set one of his forefeet upon a piece of wood eight inches thicke and a foot square, then one with a mallet, setting a chissell two inches broad upon the three clawes of his forefoot, at one blow doth smite them cleane off."

Charta
Forestæ, § 6.

Forest laws,
ch. 16.

The regulations about the lawing of dogs, both before and after the Conquest, appear to have been properly applicable only to particular breeds. Under Canute's law only greyhounds were subject to the *genui-scissio*, it being declared that *velteres* or *langeran*, as manifestly not dangerous, and sheep dogs, should be free. Mastiffs, according to the opinion of Coke, were the only dogs liable to expedition by the laws after the Conquest, because in the assises of Henry II. and Edward I. they are the only dogs which are directed to be so treated. The Cambridge MS. also says that the only dogs allowed in the Forest, are mastiffs for keeping men's houses, which are to be expeditated; and little dogs which are unable to hunt or disturb the deer.

4 Inst. 308.

Ass. of Wood-
stock, § 14,
Ass. et Cons.
For. 6 Ed. I,
§ 9.

Fo. 17.

And see 6 Ed.
I, § 16.

It is said that Rufus' great stirrup was the gauge, in the New Forest, by which the size of these little dogs was measured. "All who could not pass through the gauge," says Sir Francis Palgrave, "being subjected to the painful mutilation which, even during the generations when the duty of mercy to the beast was almost wholly forgotten, excited commiseration and horror." In fact the mutilation when done according to the Forest laws,

History of
Normandy
and England,
vol. 4, p. 185.

History of
Normandy
and England,
vol. 4, p. 648.

so far as we know them, was no more painful than the cutting or biting off parts of dogs' tails and ears, which is practised by the present merciful generation; and when we are further told of "the brach or hound being dragged through the King's great stirrup," and of "the live flesh being scooped from the foot of the writhing animal," we may remember, that inasmuch as the dog which passed through the stirrup would be free from the law, neither the King nor his foresters would be likely to defeat their own object by forcing him through it. For the rest, we may consider that the eminent historian was recording an isolated act of brutality; or we may mark with admiration how his power of word-painting kept touch with his imagination: but we must not suppose that the acts of which he speaks were directed or justified by the Forest laws.

Ch. For. Proc.
6 Car. I
(Waltham),
No. 44.

Id. No. 153,
Justices'
Inquiries,
memb. 25.

Matt. Paris,
Ch. Maj. 599
(M. R. S.);
Wilk, 371;
Ch. For. § 6.

The officers of Waltham Forest did not confine their presentments to mastiffs, but reported to the Courts all kinds of unexpeditated dogs. Of 147 so presented at the Regard of 1630, 9 were greyhounds, 41 mastiffs, 85 "mungrells," 3 "stucklecurrs," 3 hounds, and 6 spaniels. The jurors found in that year, that some of the dogs in the Forest were lawed, but for the most part they were not.

The inquiry or view, sometimes called a Court, for the lawing of dogs, was directed by the laws of John and Henry III. to be done at the time of the Regard, that is, from three years to three years; and then by the view and testimony of lawful men, but only in places where it

was wont to be done from the first coronation of Henry II. He whose dog was then found unexpeditated was to pay 3s. The provision that no ox was thenceforth to be taken for the lawing of dogs, doubtless points to a mode of oppression previously exercised by the Forest officers. By the Customs and Assises of the Forest, if an expeditated mastiff were found running upon a wild beast, the owner should be quit, but if the dog were not expeditated the owner should be guilty, and was to find six pledges. No mower might bring with him a great mastiff by night to the banishment of the deer, but he might bring little dogs expeditated¹ to watch outside the coverts.

Cotton MS.
Vesp. B. 7,
fo. 92 b.

Id. Ex alio
MS. Ruff-
head's St.
vol. 10, App.
p. 26.

The right to have their dogs free from expeditation was granted to and claimed by large landowners and persons of consideration in the Forest of Essex. Richard I. granted it to the Canons of Waltham as regarded their house dogs; and they claimed it in their charter shown in 1323-4. Stephen Bishop of London, and the Dean and Chapter of St. Paul's, claimed it at the same time, showing a charter of John. Like claims were made by the Earl of Arundel, lord of the manor of Wolfhamston, and by Thomas, of Huntercombe, and others.

Exch. Treas.
of Rect.
Plac. For.
17 Ed. 2.

¹ The word "expeditated" is not in the Record Commissioners' version, and seems doubtful.

CHAPTER V.

The Woods and Wood Rights in the Forest.

"As is common in ancient forests in the neighbourhood of men's wants, the trees were dwarfed in height by repeated loppings, and the boughs sprang from the hollow gnarled boles of pollard oaks and beeches. . . . The trees thus assumed all manner of crooked, deformed, fantastic shapes—all betokening age, and all decay—all, in despite of the noiseless solitude around, proclaiming the waste and ravages of man,"¹



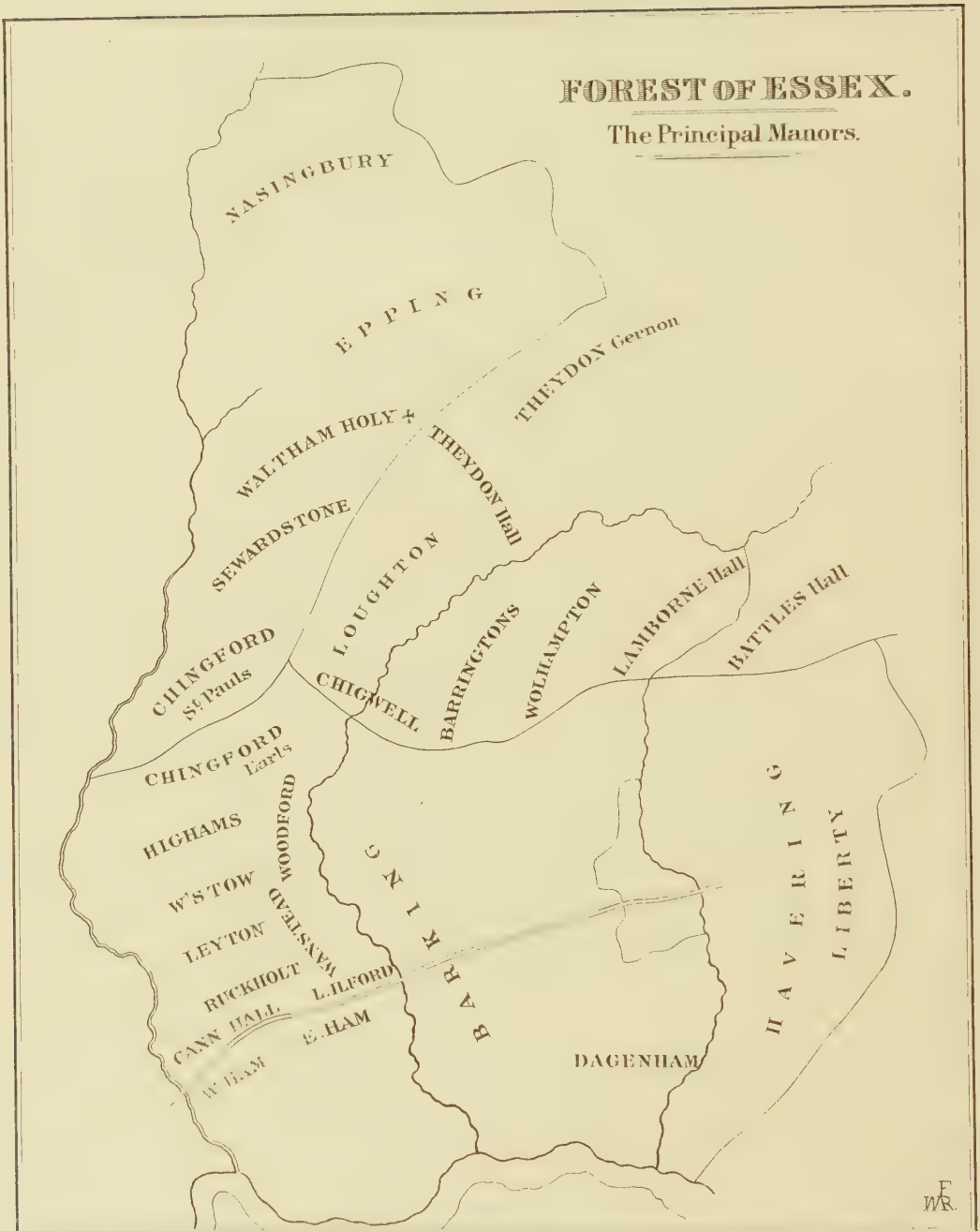
HERETO the history of the Forest has for the most part been confined to matters relating to the Crown and its privileges. I have now to describe the customary rights, which, with the acquiescence, and under the protection of the Ministers of the Forest, were enjoyed by the landowners and inhabitants over the wide and unbroken waste of woodland and pasture, formerly stretching along the whole length of the Forest; but which, by encroachments made during several centuries, has become everywhere narrowed, and in some places is no longer even continuous.

The whole of the ancient Forest had from a very early time been granted out to different owners, who,

¹ Lord Lytton—Harold.

FOREST OF ESSEX.

The Principal Manors.



To face page 231.

F
WR.

either by their original or by later grants, acquired the rights of lords of manors, and in whom were vested the soil and timber of so much of the Forest as lay within their respective boundaries; but subject to the right of the Crown under the Forest laws to forbid the inclosure of the land, and the destruction of the wood; and subject to the rights of cutting wood, of pasture, and of pannage, the nature and origin of which, I am about to examine.

The relative position of the principal Forest manors is shown on the opposite map. Down to the time of the dissolution of the monasteries, a great number of them belonged to the Church. Waltham, Woodford, Nasing, Nettleswell, and Loughton, were among the lordships granted by Harold, and confirmed by Edward the Confessor, to Waltham Abbey; which, later, also became possessed of Sewardstone, Roydon, Epping, with Upshire and Hallifield, and Theydon Boys. Wanstead, originally the property of St. Peter's at Westminster, afterwards belonged to St. Paul's, which also had Chingford St. Paul's; Layton and West Grange belonged to St. Mary's, Stratford; and Barking, with Dagenham and a number of smaller manors, to the Abbey of Barking. Other Forest manors were in the possession of private owners, except when from forfeitures or other accidents they sometimes belonged to the Crown; and after the dissolution of the monasteries, the ecclesiastical manors were again granted out, with the exception of a considerable part of those in East and West Hainault, which had belonged to the Abbey of Barking; and which remained in the Crown until the disafforestation of that part of the

Cod. Dipl.
No. 763.

Dugd.
Monast. i. 61.

15th Rep. of
L. R. Com.
1793.

Forest in 1851. In 1793, the King's woods in Hainault contained by measure 2,939 statute acres, and the rest of the Forest by computation about 9,000 acres.

§§ xxviii. xxix.

It was forbidden by the Forest laws, as well to the owners of trees and underwoods as to strangers, to cut them without the licence of the King¹ or of the Forest officers. "None," says the Forest law of Canute, "shall touch our wood or underwood without the licence of the chief men of the Forest; whoever does so shall be guilty of a breach of the royal chace. But if any cut an oak or other tree which bears fruit for the deer, he shall besides pay 20s. to the King."

Assis. of
Woodstock,
§ viii.

Id. § iii.
Ass. R. 1,
§ iii.

Henry II. ordained that if his demesne woods in the keeping of his forester were destroyed, and no good cause could be shown for their destruction, the forester should be answerable in his person only for the waste. The same King and Richard I. also forbad the giving, selling, or wasting the woods in the King's Forests; but allowed the taking of such wood as was necessary by view of the foresters and (R. I.) of the verderers.

Rastall Abr.
Forests.
Consuetudines
et Assisa de
Foresta.
Cotton MS.
Vesp. B. 7.
Ruff. App. 25.

Delivery of housebote and haybote might be made as the state of the wood permitted, but not according to the demand of the person to whom it was delivered; and none might sell any of the King's wood without his warrant.

Id. and see
Howard Cout.
Angl.-Norm.

If a man cut down an oak beyond the demesne woods, and within the Forest, without the view and de-

Close Rolls,
9 H. 3, 1225,
memb. 13.

¹ See a direction by Henry III. to Richard de Montfichet to provide oaks from the Forest of Essex for the master of St. Bartholomew's Hospital in London.

livery of the forester or verderer, he was to be attached by four sureties, and the value of the oak was to be appraised by view of the forester and written in the roll of the foresters and verderers: six pledges were to be taken the first time, twelve the second, and the offender's body the third time. The foresters were also to attach all persons offending against the vert; the first time by two and the second by four sureties; the third time the culprit was to be brought before the verderers, and to be attached by eight sureties; and after the third time his body was to be attached and detained.

The vert of the Forest, sometimes called by the English term "greenhue," included all trees, whether bearing fruit or not, and also underwood; and such as bore fruit fit for the food of the deer, viz. pear and crab, hawthorn, black thorn, white thorn, and holly, and all other great and small trees, when growing in the King's demesne woods, were called "special vert."¹ The

¹ To this definition of vert several writers add, with variations, "the ash tree if he be old [or if it be the ancient use in the Forest] being in the arable land within the Forest because the King is in possession." The Articles of Attachment of the Forest mentioned in Chap. II. are the supposed authority for this. I have been unable to trace the version used by the Record Commissioners; but the word "fraxinus" is not in the Cotton MS., of which Ruffhead professes to give a copy; and he introduces another word, which is also an interpolation. The sentence in this MS. runs thus:—

"Omnes arbores fructum non portantes, et etiam hec que fructum portant per totum annum extra dominicum, si antiquitus fuerint in foresta et arabil(i) quia dominus Rex est seisitus."

The meaning is obscure. Another writer introduces the maple, as an equivalent of the word which in the Cotton MS. is plainly written "arabil." The objection both to the ash and the maple is that they are already included in the general definition of vert.

The MSS. are probably wrongly copied from an earlier document.

vol. 2. Leg.
For. cap. xii.

See Manwood.

P. 72 *supra*.

Cott. MS.
Vesp. B. vii.
fo. 92 b.
Record
Comm. ed. of
Stat. vol. i.
p. 243. Cay's
Abr. vol. i,
Forests;
Rastall's Abr.
Manwood, ch.
6, § 1.

Camb. MS.
fo. 22; Harl.
MS. 6839,
fo. 261.

46th article of the charge to the grand jury of Waltham Forest, in 1634, declares that hawthorne, crab tree, holme or holly, and "old fearne,"¹ are accounted vert by the ancient Iters, and may not be cut down within the regard of the Forest. It is the King's vert.

E. F. Arbitn.
Mills' Case,
Ev. of H. J.
Hatherill,
2311-17.

Accordingly, some of the persons who claimed wood rights in the Forest excepted from their claims the right to cut "whitebush, hull, and crab;" and even in the 19th century, we find the Forest officers exercising their ancient right to enter into any man's woods in the Forests, and cutting these kinds of vert as "browst" for the deer's winter food, in the wood assignments, the owners of which claimed a general right to underwood.

Manwood,
ch. 6, § 3.

The destruction of special vert was a greater offence than that of common vert. A simple money fine might atone for the latter;² but for the former, the culprit was not only to pay the value of the wood, but forfeited the cart and horses with which it was drawn out of the Forest. That this law was still in force in Waltham Forest in 1630, is shown by some of the answers to the justices' inquiries, which only state the value of timber and pollards wrongfully cut in Chingford, Sewardstone, and some other parishes; but in the King's demesnes in Hainault also give the value of the horses, and of the "unshodd carte," used for drawing the trees out of the woods.

Ch. For. Proc.
6 Car. 1,
No. 153.

¹ Old fern is not mentioned, so far as I can find, in any Forest law or regulation. Having regard to the subject of the last note, it is curious that in the Camb. MS. the word "fearne" looks at first sight very like "fraxine."

Assisa Reg.
R. I. de
Forestis.

² "Qui autem forisfecerit in Foresta Regis de viridi . . . erit in misericordia Regis de pecunia sua."

When the injury done to a wood by cutting, was such that any one standing and resting upon the projecting trunk of a felled oak or other tree, could see on looking around, five trees cut down, it was called waste; and such a misdeed, even when committed in a man's own wood, was of so grave a kind that it ought never to be quieted at the Session of the Exchequer, but ought rather to be punished by fine according to the means of the offender. A punishment so regulated was, of course, abused. When the regarkers spied out the woods of one whom they knew to be wealthy, they forthwith declared, whether truly or not, that they had been wasted.

Dial. Exch.
Bk. 1, c. xiii.

Wasted woods were also seized into the hands of the King. Henry I. impleaded every year the owners of the woods, to ascertain if they hunted in them, or diminished them to supply their own wants. And he not only seized, but kept them, for one of the oaths taken (but not kept) by Stephen, when he came to the throne, was that he would not keep in his hands the woods either of priests or people, as had been done by King Henry.

Mat. Paris
Chron. Maj. 2.
165 (M. R. S.).

Id. 163.

The Essex records show that in the 13th century the Forest woods were frequently seized on the King's account for waste: the rule was that, if a wood remained in the King's hands for a year and a day, it remained at the pleasure of the King, unless it could be recovered by the judgment of the Forest Justices. In Essex woods were often given up after a longer time, on payment of a fine. But the offence of wasting a wood was not entirely condoned by payment of a fine, half a mark being made payable by another rule in respect of a

Plac. For. 5
Ed. 1 (1277).
20 Ed. 1
(1292).
Consuet. et
Ass. For.
Ruff. Stat.
App. p. 25,
ex al. MS.

Id.

Plac. For.
5 Ed. 1.
20 Ed. 1.
17 Ed. 2.

wasted wood at each subsequent Justice Seat. For such old wastes, Roger le Veneur and others in 1277, Ralph de Tony in respect of his wood at Walthamstow in 1292, and Cypriana de Boys and several others in 1323, in respect of a wood in Nastok (Navestock), each paid that sum.

Plac. For.
5 Ed. 1.

The records of the 13th, 14th, and 15th centuries, abound with complaints of the destruction of the vert of the Forest. At the first Justice Seat, held in 1277, the entries about the vert are numerous. The proceedings extended to the hundred of Lexden, and half of each of the hundreds of Wenestre and Thurstable, which were then claimed as part of the Royal Forest; and a regard of Colchester was duly presented, in which it was found that the wood of John le Burgo of Cestreweld had been wasted by him, and that there were "Extractors and Destructors" (*Extractores et Destructores*; afterwards called "malefactors of vert") of the said wood. Their names were William Springold of la Milaunde; Ralph the Sawyere of the same place; William del Frith, Philip de la Hegge, Colemannus de Quercu, Stephen Clerk of Withernum de Ford, Hamo Toli, Richard [his] brother, John Toli; Nicholas Molin, Roger le Clerk of Colecestre, and Geoffrey le Warener of the same place. Some of them, however, seem to have proved an *alibi*, and one was dead; but several were fined.

Thomas Thurkyld of Yarmouth was also found to have caused great destruction in the same wood, carrying away the vert in large ships, and wasting the grove called Wolvesgrave; and resisting when the King's

foresters attempted to attach him and his workmen. He was compelled to appear before the Forest Court by the Sheriff of Norfolk, and was adjudged to prison, and fined 20s. by the pledges of Geoffry the Palmer of Waldon, and Richard the son of Martin of Colchester. There were great complaints at this Court of damage to woods, both in the old and in the wrongfully afforested districts; with the afforestation of which these riotous acts were probably connected.

Again, in 1292, many persons, including Master John de Lucca, Canon of St. Paul's, London, were fined for trespass of vert. In 1323 the Prior of "Bermounsye" was presented for wasting his wood, which was seized into the King's hands. John le Tailor, of Wodeford, was denounced as a common malefactor of vert, as well by day as by night, in divers woods in the Forest; and there were many other like complaints: and notably in 1489, no less than twelve against Christopher Stubbes of Loughton, for cutting, selling, and carrying away, in all, 350 loads of timber, and committing other depredations upon the vert. The great number of these complaints shows that in those days, as well as in the 19th century, there were many who thought it no crime to steal wood from the Forest; and possibly the gradual destruction of the ancient common wood rights may have been the cause of the mischief.

The robberies were not all committed by strangers. In 1489 the forester of the bailiwick of Inholt was presented and convicted as a common destroyer of the woods of the Abbess of Barking in Inholt; and her riding bailiff wrongfully cut oaks in the King's waste soil.

Justice Seat,
1489.

E. F. Arbit.
Evce. of H. J.
Hatherill,
2280.

Duch. of Lanc.
Misc. Rec.
Pleas of Vert,
For. of
Waltham.

It was perhaps in consequence of the connivance of the Forest officers, that complaints of the destruction of the vert were much fewer in the 16th and early in the 17th century. In 1607, a man was presented at the Manor Court of Eppingbury for cutting 157 trees on the waste of the manor in the Forest; but among the 340 presentments at the Forest Regard of 1630, which covered many previous years, very few relate to the vert; and of those which do, several refer, not to active waste, but to the omission to fence woods which had been felled, in order to preserve the young springs from being injured by cattle.

1 Oct., 5 Jas. I.
Ch. For. Proc.
Waltham;
6 Car. I,
No. 44.

Appt. of
Superint. of
Reeves,
Camb. MS.

22 Ed. 4, c. 7.
35 Hen. 8,
c. 17.

The connivance of the under keepers at the wilful concealment of this neglect was complained of by James I. in 1624. The owners of such woods had originally only a permissive right to fence them for three years; this in 1482 was extended to seven years; in 1543, the increasing destruction of the woods led to an enactment, that all coppices or underwoods of or under fourteen years' growth, should be inclosed after cutting, during four years; all above fourteen and not over twenty-four years' growth, during six years; and all woods over twenty-four years' growth, during seven years.

The same statute directed that for every acre of coppice wood cut, of twenty-four years' growth or under, twelve storers or standils of oak should be left; or if there were not so many, then of elm, ash, or beech, likely to be timber trees: and in woods over twenty-four years' growth, a like number of trees for timber were to be left for twenty years. These however might be cut for the personal use of the owners, for the repair of houses,

bridges, floodgates, and the like, and for ships. In 1570, ^{13 Eliz. c. 25.} each of the times prescribed by the last statute for keeping up the inclosures of woods, was increased by two years.

The object of these provisions was, of course, that the Forests should not be entirely stripped of timber; but James I. had regard also to the ornamental character of the woods on the Crown demesnes, and directed the Commissioners for sale of the woods, not to cut any tree, other than in places assented to by such as the King had appointed to take care for the beauty of the Forest, park, or chase, in which timber was to be sold.

Articles annexed to Commission of Sale touching Forest, &c., 1609.

All these precautions were neglected during the Commonwealth, at which time the destruction of timber was very great. In 1656, according to a certificate made by Carew Hervey or Mildmay and John Brewster to the Lord Protector, in pursuance of his warrant directing an inquiry into the spoils of the "Forest by cutting timber and underwood, much spoyle was comitted in three groves, called Great King's Grove, Little King's Grove, and Queen's Grove, w^{ch} belong to y^r Heighness," and were formerly preserved as nurseries for young timber for shipping, lying near to the waterside. Above 100 timber trees and oaken spears were carried away. One workman alone felled in one of the groves 500 of long tallwood,¹ being oaken spears, and 1,500 of short

State Papers Domestic Interregnum 1656, Bund. 654, fo. 249.

¹ Mr. Rogers seems to imply that "tallwood" was wood used for burning. The "long tallwood" here mentioned was certainly not firewood; the "spears" with which it is identified were oak trees, Six Centuries of Work and Wages, p. 298, ed. 1886.

tallwood, some of which was hornbeam, besides Ostrey faggots,¹ and brush faggots to a great quantity; and the like proportion was believed to have been felled in the other two groves. These were on Crown lands. But the destruction in other parts of the Forest was as great. Besides much timber, trees sufficient to produce 10,000 logs, 50 loads of spraywood, and as many of livery wood, were carried away and sold out of the Forest. And it was "testified, that Mr. Payne hath sold to one Townsend and oth^{rs} all the Maple trees, Servis trees, and holly trees y^{tt} are growing wth in ye Forrest." For prevention whereof the expedient was humbly offered, which was a constant rule before observed in the Forest, "that noe Keeper, Woodward, or oth^r Offic^r of Forrest, under what pretence soever, presume to cutt, fell, or cart away any Tymbr^r or other Tree or Wood wth out y^e view and approbacon of a verderer and Cheife Mr. Keep."

Diary, 18 Jan.
1662.

Notwithstanding these depredations, much timber fit for the use of the navy still remained in Hainault. Pepys saw many trees of the King's, a-hewing in the Forest in 1662; and he mentions the complaint of the Admiralty officer that the country was backward to come

which were preserved for timber. The "short tallwood" may probably be the pollards, which were kept for lopping; the trunks, when ceasing to produce shoots, being used for the repair of bridges and such purposes, under the name of "wholves," and sometimes for firewood.

Mats. Illust.
of Reign of
H. 7 (Camp-
bell), 2. 24
(M. R. S.).

Again, in the 15th century the distinction between firewood and tallwood appears in the following entries:—"Item ccc di fagottes, price the c., iiis. viiis—xiiis. 10d. Item 11^r talwoode, price the c., viid—xiiis;" in the last entry the viid. being evidently a mistake for viis.

¹ I cannot find any explanation of this term.

in with their carts.¹ A great quantity was also cut early in the 18th century, 1,245 trees having been sold in 1721 and 2,075 in 1725. In 1794, 470 loads of oak timber were felled in Hainault for the use of the navy, of which 442 loads were actually used, and the rest, with the bark, lops and tops of the whole were sold—the 28 loads of timber producing 68*l.* 13*s.* 6*d.*, the bark 312*l.*, and the lops and tops 139*l.* 16*s.*

<sup>15th Rep. of
L. R. Com.
1793.</sup>

<sup>Attach. Rolls,
8 Sept. 1794.</sup>

The comparative scarcity of large trees in the Epping division of the Forest arose from the continual felling of the timber, and from treating the new growth as coppice wood, which was cut at short intervals. This was much practised in the 18th century. The rolls of the Court of Attachments between the years 1713 and 1770 are full of applications for, and of grants by the Chief Justices of the Forests of licences to cut woods; and many of these applications were renewed at intervals of from ten to twenty, but generally of about twelve or fourteen years; the woods being described as then of full growth.

Between 1713 and 1723, in particular, there was an epidemic of wood cutting. During these years, leave was given to cut groves covering upwards of 680 acres. Afterwards the applications were much fewer, but the acreage was about 314 between 1724 and 1733, 251 between 1734 and 1743, 283 between 1744 and 1753, and 246 between 1754 and 1770.

¹ This remark seems to imply that the King's officers were still attempting to enforce the right of purveyance, which had been abolished in 1660.

During the whole of this period, leave was given to stub up about 123 acres of the woods mentioned in these applications.

After 1770, either from the neglect of the officers of the Court to make the proper entries, or because the owners cut without licence, no applications for leave to cut or to stub up woods appear on the rolls.

Lansdowne
MSS. No. 47.

Attachment
Roll, 28 Oct.
1728.

The proper course was first to obtain leave from the Court of Attachments, and then to apply to the Chief Justice for a licence, which was seldom refused. Lord Riche said that when he was Lieutenant of the Forest, he never refused an applicant leave to cut or inclose his own woods. But later, the Lieutenant does not appear to have been concerned in the matter; and that licences were sometimes irregularly obtained, appears from the admission of a person in 1728, that he obtained a licence to stub a wood by payment of 5*l.* 5*s.* to the clerk of the Secretary of the Chief Justice, after refusal of leave by the verderers.

There were various special rights of cutting wood in the Forest, arising either by grant or by ancient custom, and exercised in some cases independently, and in others under the control, of the Forest officers.

Cod. Dipl.
No. 813.

The charters by which Edward the Confessor granted or confirmed lands to the monasteries of Waltham, and St. Paul's, London; to the former "the land by the inhabitants of old time called Waltham," which included Passefeld (Passelow), Walde, Tippendene (Debden), Alwartune (Alderton), Wodeforde, Nesingen (Nasing), Nethleswelle (Nettleswell), Lukintone (Loughton), and

other places; and to the latter, Chingford St. Paul's; contain no restrictions upon the use of the woods. But the grant by Henry II. which confirmed these old possessions of Waltham, and added to them Sewardstone, and Epping, declares that it shall be lawful for the monks freely to use their woods; while a later charter by Richard I. gives a right only to take freely and sufficiently from all their woods without view of the foresters for the use of their house. It was, however, admitted by the Abbot of Waltham in 1292, that he had no right to give or sell his woods, without the King's permission; and licences were granted to the Abbot and Convent to cut and sell woods to a certain value in 1343 and 1379.

H. 2 (1154).
Cartæ Antiquæ,
M. n. 2.

1 Richd. I,
Id. M. No. 6.

Exch. Treas.
of Rect. Plac.
For. 20 Ed. 1.

Pat. Roll,
16 Ed. 3, Part
3, m. 11.
Id. 2 R. 2,
Part 2, m. 15.

By other charters of the same and of later Kings, the Abbess of Barking, the Church of St. Paul's, and other large Forest landowners were entitled to take of their woods for the use of their houses without view of the foresters.

It is probable that these grants, which practically extended over the whole of the ancient Forest, were inserted in the charters for the purpose of confirming the rights, which, time out of mind, had been exercised by the inhabitants in this, as in other forests, of pollarding and lopping the trees for fuel and other purposes.¹ The

¹ In the manor of Writtle the tenants had a right against the lord's demesnes called "Frampole," which was evidently of the same character, and was exercised in much the same manner, as the Forest right of lopping. The tenant had as many trees or poles as he could reach from the top of the ditch with the helve of his axe, towards the

Cowell's Interpreter,

prevalence of this practice is shown, as well by the abundance throughout the Forest of such trees as are described in the passage quoted at the head of this chapter, as by many ancient documents.

In 1630 and 1670 the lords of fifteen Forest manors and sub-manors claimed, in almost similar language, power to lop and cut all their own trees called pollard trees, anciently lopped and growing on the demesnes of their manors; in most cases, without view of the foresters, and for burning on their hearths, or for mending their hedges and inclosures. Like claims were made at the same time by owners of freehold and copyhold lands and houses, to cut the pollards on their own lands. And in Sewardstone, Wolhampton in Waltham, Chigwell, Ruckholt, Walthamstow Toney, Theydon Hall in Theydonbois, Woodford, and Stapleford Abbot, not only customary tenants, but also freeholders and inhabitants of the vills and parishes, claimed estovers, sometimes in a general form, and sometimes expressly by lopping pollards.

It can hardly be doubted that the rights of cutting which thus prevailed in many neighbouring parishes, the position and circumstances of which were alike, had the same beginning in all; or that they were remnants of those ancient common wood rights which existed in this and many other countries before the forest and waste lands had become private property, and which in later

repair of his fence. The etymology has been doubted; but it is tolerably clear that the word refers to the profit or free right (Anglo-Saxon, *freame*) of polling or pollarding.

years existed in the modified form of rights of estovers¹ for the use of ancient houses; but often disappeared because they could not be justified by the rules which had grown up under the feudal law.

Grants of, and references to such rights, are common in charters of the 9th and 10th centuries. "Common wood with the other men according to ancient custom;" common of wood, "like that of other men in the same land;" "freewood, according to ancient custom and regulation, to be taken in summer, in the common wood which we Saxons call *in gemenisse*," "the wood which from olden time was declared by law to be common," are examples of the language of such grants, made by Cuthred and Æthelwulf of Kent, and Æthelwulf of Wessex, in 805, 832, and 839; and the "wood rights in the wood which the freemen enjoy" occurs in a grant probably of the same century by Bishop Werfrith.²

Cod. Dipl. 190.
Cart. Sax. 322.

Cod. Dipl.
1041.
Cart. Sax. 407.

Cod. Dipl. 241.
Cart. Sax. 426.
Cod. Dipl. 843.

Cod. Dipl. 305;
and see *id.*
179, and Cart.
Sax. 303; Cod.
Dipl. 198,
432, 714, 843,
1041; Cart.
Sax. 407.

The wood rights, traces of the former existence of which are to be found in all parts of the Forest, were still exercised in the parish and manor of Loughton,

¹ The right of estovers, in Saxon-English called "botes," includes a right to take wood for burning upon the hearths of ancient houses, and for the repair of buildings, fences, and implements of husbandry; and according to its use for any of these purposes, it is known as fire bote, house bote, hay or hedge bote, or plough bote.

² De Laveleye refers to the words "*in silva communi seu regis*" in a law of Dagobert, A.D. 630, as illustrating the manner in which the Kings treated the common woods as the property of the Crown; but he cites the passage without the least regard to its sense. The law to which he refers fixes the fine to be paid by a person who, from a wood which is common, or belongs to the King, or to any one else, removes timber for building or split logs.

De la Propriété, &c.
p. 118.

Capit. Reg.
Franc. Dagobert, cap. lxxvi.
Baluzius, i. 50.

when the Loughton wastes passed into the hands of the Conservators of Epping Forest. They are undoubtedly of the same character as those referred to in these ancient charters; and also resemble the customary rights which have existed from remote times in some of the cantons of Switzerland, and in other countries, in which, at the time of their origin, wood was plentiful and people few.

Duch. of Lanc.
Rec. Surveys
of Woods,
Div. 19, vol. 9.
Duch. of Lanc.
Surveys and
Deputations,
10 Jas. I.

Two surveys of the manor of Loughton, when it was parcel of the Duchy of Lancaster, were made in 1608 and 1612. According to the first there were in the Crown demesnes 212 loads of timber and 1,586 loads of firewood. The other shows that both on the demesnes and on the waste called Fairmead, within the manor, there were great numbers of pollards; the ancient tenants of the manor having, as it was stated in the survey, a right of common of estovers over the waste; besides a similar right in Highwood on payment yearly of twenty-nine smoke hens to the lord. The survey says, in conclusion, "Upon all wch pcells of wood and wast, are dispersedly growing divers pollards, and old decayed beech and hornbeam trees, which only beare cropp for the above-mentioned uses of the tenants of the said manor."

The validity of the right of lopping which was claimed and exercised by the people of Loughton, was much disputed before the Epping Forest Commissioners, and also before the Epping Forest Arbitrator, by both of whom it was held to be well established, having regard to the Forest laws. But as the question of its validity depended upon principles of English law which are entirely artificial, it is unnecessary to discuss it here. I

purpose only to show the nature of the custom, its probable origin, and its bearing upon the other rights of common which prevailed in the Forest.

Omitting some exceptions which it is not necessary to state, the right as found by the Epping Forest Arbitrator, after careful examination of the evidence, was, that the occupiers of houses in the manor and parish of Loughton had the right to lop under the name of "lop-wood," for the proper use and consumption of [the inhabitants of] such houses, as fuel, from the hour of twelve o'clock at night on the 11th day of November (All Saints) in each year to the same hour of the 23rd day of April (St. George) in each succeeding year, the boughs or branches of the trees growing upon the waste lands of the Forest, within the precinct of the said manor and parish (except upon Monks Wood and Loughton Piece), in such manner as not to destroy or unnecessarily injure the trees; and at such a height from the ground as not to destroy the covert or browsing of the deer of the Forest. The finding of the Epping Forest Commissioners in 1877 was to the same effect, but it did not contain the clause about the covert or browsing of the deer; which for a reason to be presently mentioned, I consider to have been founded upon a mistake.

Final Rep. of
E. F. Com.
p. 4 (1 Mar.
1877).

It was almost an article of faith in Loughton, that the right of lopping was granted to the inhabitants by Queen Elizabeth, who was lady of the manor. It is possible (for such traditions are seldom without foundation) that the Queen may have confirmed, or renewed some earlier confirmation of the ancient rights, or may have

Loughton
Rolls, 21 Sept.
1570.

Claim No. 2,
Bundle A.
1850.

E. F. Com.
Evidence of
Maynard;
Salmon;
Wade;
Parish.
Proceedings,
pp. 3417—
3429.

Ch. For. Proc.
Waltham.

prevented their destruction. But it is certain that she did not originally grant them; for in 1570, when she had been on the throne but twelve years, several persons were fined at the manor court because they carried their *custom* wood in carts, *against the custom* of the manor. Moreover, the belief that the right was granted by charter was not confined to Loughton. The inhabitants of Theydon Bois, in 1841 and 1850, when the right of the parishioners to lop was interfered with and disputed by the lord of the manor, claimed a right of lopping; and alleged, in their claim in 1850, that Waltham Abbey, Epping, Loughton, and Theydon Bois had all at one time an equal right. In 1875 they also claimed this right before the Epping Forest Commissioners; and though for technical reasons of law the claim was only allowed to the tenants of ancient tenements held of the manor, the evidence of several aged witnesses showed, not only that the right was exercised at the same time and in the same manner as at Loughton, but that according to tradition it was the right of the parishioners; some of whom had always continued to cut in order to preserve the right, although they had been prosecuted for so doing, and imprisoned for non-payment of their costs.

In Sewardstone also, in 1630 and 1670, the men and inhabitants of ancient messuages and tenements, both free and customary, claimed lopping rights in the hamlet, in terms which, as to the mode of taking the wood, were almost identical with the description of the Loughton custom, viz. a right to cut, from the Feast of All Saints to that of St. George, sufficient fuel to be

burnt in their ancient messuages, and carried away in a sled with two horses for each turn only.

I shall show further on that these and the rights of some other parishes, were probably represented in modern times by permanent assignments of parts of the waste for the exercise of the rights of lopping, but under the same regulations which were observed in the lopping of the common wood in Loughton.

Except by taking care that the lopping was conducted in accordance with certain regulations which were for the advantage of the deer, the Forest officers never interfered with it, although it was a direct injury to the vert of the Forest. Like many other customary rights, which were originally managed by the communities to which they belonged, the regulation of the Forest lopping had for centuries been in the hands of the manorial Courts, which were continually striving to lessen the burden upon the lords' woods, and in several of the manors succeeded in altogether destroying it.

The time at which the lopping began in Loughton was formerly All Saints' day—the 1st November; but by an order of the Loughton Manor Court, made on the 14th May, 1753, in consequence of the change in the calendar, the day was shifted to the 12th November, it being stated in the order that the anticipating the nominal day for the beginning to take or cut wood, called lopwood, would be attended with great inconvenience, and be very prejudicial to the growth of wood in the Forest.

The inhabitants seem to have thought it necessary

E. F. Com.
Evidence of

H. Bacon;
J. Spicer;
J. Mathews;
A.T. Talmage.

E. F. Arbitn.
Fredk.
Luffinan.

for the preservation of their rights that they should begin to lop as the clock struck the hour of midnight on the preceding night; and they met in the woods for that purpose, generally at a place called Staples Hill, where, after lighting a fire and celebrating the occasion by draughts of beer, they lopped from 12 till about 2 o'clock, and then returned to their homes.

E. F. Arbitn.
Evidence of
H. J. Hatherill.

The manner of lopping was for each person to mark out for himself the piece of ground upon which he proposed to work for the season, by cutting off and dropping a bough here and there, to show his boundaries. These were observed till towards the end of the season, during which he lopped within them at his pleasure, notwithstanding the restrictions which the manor court attempted to impose.

E. F. Com.
Evidence of
A.T. Talmage;
H. Bacon;
J. Spicer;
J. Mathews.

E. F. Arbitn.
H. J. Hatherill.
Rolls, 3 Apl.
1674; 29 Nov.
1699.

There were no disputes about the cutting, although there appears to have been no person in authority who had power to regulate it. The only care of the Forest officers and of the bailiff of the manor, was to prevent the pollarding of spear oaks,¹ and the cutting below the proper height, which was six feet from the ground. But it was difficult to keep the men to that height, and the distance was sometimes put as low as five, and sometimes as high as eight, feet.

It was thought by some of the witnesses that the

E. F. Arbitn.
Evidence of
G. Banks,
1349—1358.
Attachment
Roll, 27 June,
1715.

¹ *I.e.*, oaks intended to grow into timber trees. Before attaining the dignity of a spear the young oak was a "sapling"; the young hornbeam before pollarding was a "second." In January, 1715-16, thirteen persons were fined 4*d.* each for heading such oaks; and in the following August, John Wooton was fined 2*s.* for heading eight spear oaks in Hainault. The spears were marked by the King's woodward with the broad arrow.

branches were allowed to be cut only at a certain height above the ground, in order that cover might be left for the deer. But it was considered by an experienced wood surveyor, and by Henry John Hatherill, one of the Epping Forest witnesses, members of whose family had for many years been Forest officers, and who had himself a great knowledge of the matter, that the object was to keep the young shoots of the pollards beyond the reach of the deer and the cattle, which would otherwise browse upon them; a reason which supports the conclusion that the right of lopping was not dependent upon or connected with the Forest law.

E. F. Arbitn.
Evidence of
W. J. Beadel.
Id. Loughton
Rights.

The wood was cut with an axe having a handle about three feet long; so that a man standing on the ground could conveniently lop the trees at the proper height; the larger branches only were cut out, the smaller being left to produce wood for lopping in future years. It was, apparently, for not observing this rule that Richard Wolsey, a woodward, was presented in 1573 for spoiling the trees, "because those trees which in one year he lops, in the next year he wastes, and he names them starvelings."¹

E. F. Arbitn.
Evidence of
John Grant.
E. F. Com.
Evidence of
H. Bacon;
J. Spicer.

The customary mode of cutting, though not the most economical, was very suitable to a district in which wood was plentiful; and the result was that there was always a supply of branches sufficient for the fuel rights.

E. F. Arbitn.
Evidence of
T. S. Woolley.

The lateral shoots cut from the lopped branches were left on the ground as food for the deer; and there

E. F. Arbitn.
Evidence of
H. J. Hatherill.

¹ That is, trees which, being worn out, no longer produced branches for lopping. The trunks, being the property of the lord of the manor, were then often applied to his use.

E. F. Arbitn.
Evidence of
John Free.
Rolls, 25 Aug.
1718; 14 May,
1753; 21 July,
1579; 21
Sept. 1570,
and many
other entries.
E. F. Com.
Evidence of
H. Bacon;
J. Spicer;
J. Mathews.
Rolls, 25 Aug.
1718, and
many others.

are many entries in the Loughton rolls about their improper removal. The branches themselves might not be faggoted on the Forest, but were made into heaps about six feet high; which were to be drawn out of the Forest, neither with draft oxen nor in carts, but only with two horses or geldings,¹ and a sledge—which was a frame of wood shod with iron, and originally without wheels. Later, this rule was neglected, and wheeled carriages were used; but the name of the ancient carriage was transferred to its burden, which was called a “slid.”

Rolls,
21 Sept. 1570.

Id. 23 Oct.
1593.

Through a space of almost 260 years, viz., from 1570 to 1828, the rolls of the manor of Loughton contain orders made for the regulation of the lopping; and it is remarkable, that while attempting to limit the right to tenants of the manor for their estovers, these orders constantly recognized its exercise by “inhabitants,” “cottagers,” and “other persons”; and sometimes refer to it as “common” or “custom” wood. Thus, in 1570 there was the order, just mentioned, that no tenant of the manor, or inhabitant within the manor (which is coterminous with the parish), were to draw their customary wood with draft oxen or carts. In 35 Elizabeth no tenants or inhabitants in certain houses built within the memory of man, were to have any common of wood under a penalty for each time of ij.s. Three years later another order shows that this was not obeyed; and in

¹ I was told by a very aged witness who gave evidence before the Epping Forest Commissioners, that according to tradition, the first load of wood cut in the season was formerly drawn out of the Forest by white horses.

44 Elizabeth it was superseded by an order that tenants who had new tenements should not carry wood with a sledge, under penalty for every sledge of v.s.; a recognition of the right of such tenants, which was inconsistent with the ordinary right of estovers. The object, probably, was to reduce tenants of new houses to the position of cottagers; who, by several orders in the 17th century, were prohibited from carrying wood on a sledge; the meaning being, that they might take only such a quantity as they could carry themselves.

Loughton
Rolls, 14 Jan.
1602-3.

Id. 20 Sept.
30 May, 1665;
12 April, 1699.

The history of the cottagers as a class, goes back to a remote age. In the Hundred Rolls they are called "cotarii," and in the Domesday sometimes "cotarii" and sometimes "bordarii," under which name, corrupted into the misleading term "borderers," we find in the 17th century that they were bound to assist the keepers of the Forest to attach offenders.¹

Charge of
C. J. § 17,
Harl. MS.
6839, fo. 261.
Camb. MS.
fo. 20.

In the 10th century they were called "kotsetlan;" and the nature of their services to their lord, and their rights, are fully set forth in the *Rectitudines Singularum Personarum*. Five acres was the quantity of a cottager's land, and more if it was the custom of the place; and the writer adds, that it would be too little if less, because his work must be often ready.

But in later times his holding, which was only at the will of the lord, was often only half-an-acre, or the still smaller garden which belonged to his cottage,

St. Pap. Dom.
Ser. Jas. I,
vol. 109,
No. 31.

¹ The reeve and fourmen of Nasing presented, on the 21st September, 1630, that no complaints were made by the Forest officers of the want of such assistance.

There were at the date of the Domesday survey five of these bordarii on one, and four on the other, of the two manors in Loughton then held by the monastery of Waltham Holy Cross; besides nine others on the estates belonging to Robert Greno and Peter Valoniensis, but which it is thought may have belonged to Leyton. In one of the entries in the Loughton Court Rolls in the year 1661, they are distinguished both from the ordinary tenants of the manor and from other inhabitants by the description "tenant of the manor, *Anglice*, a cottager." Their general right to lop wood, so long as they did not carry the wood away on a sledge, is a distinct recognition of their position in the ancient community; and it will hereafter be shown, that when the Forest Court of Attachments attempted to make the yearly value of each man's holding, the measure of his right to depasture his cattle on the Forest waste, a special provision was made in that case also, for the cottagers who held less land than would entitle them to turn out a single beast.

Loughton
Rolls,
7 April,
5 Dec. 1670.
6 and 19
Jan. 1657;
13 April, 1721;
and many
others.
Id. 27 April,
1724.

Reverting to the entries which by implication affirm the right of inhabitants of Loughton to cut wood, we find that inhabitants within the manor were forbidden to cut any green tree, or to cut forest wood for trade purposes; if they did so they were required to pay 40s. for the use of the poor of Loughton; and in 1724, notwithstanding the partial admission in 44 Elizabeth of the rights of owners of new tenements, the so-called right of estovers was denied to tenants or inhabitants living in houses or cottages built within the memory of

man. In 1753, the order which fixed the day for cutting, on the alteration of the calendar, affirmed the right not only of tenants and under-tenants, but also of inhabitants of ancient tenements within the manor, to lop in the Forest; and the rights of the latter were also clearly recognized by another order made in 1773.

Loughton
Rolls, 14 May,
1753.

Id. 10 May,
1773.

In 1761 a formal presentment denied the right of certificate men to cut lopwood. These were men who, by virtue of a certificate from the poor law officers of another parish acknowledging that they were inhabitants of it, escaped the liability to be sent back to that parish, so long as they did not apply for relief in the place to which they had migrated. They were, in fact, persons who left their legal places of settlement in search of work, and some of whom probably resorted to the Forest in Loughton, for the purpose of lopping in the character of inhabitants.

Id. 30 March,
1761.

8 & 9 W. 3,
c. 30.
9 & 10 W. 3,
c. 11.

Another check on the cutting was attempted to be enforced in the 17th year of Charles I., and was the subject of many orders and presentments down to the year 1828. It was stated that by the custom of the manor the tenants were at liberty to lop the common wood only one day in the week, which was ordered to be Monday; and only by one man, and enough for one chimney; but the number of orders made upon this subject shows that they were not obeyed, and the living witnesses declared before the Epping Forest Commissioners that no such restriction was attempted to be enforced in their time. In connection with this it was also ordered by the Manor Court that the wood cut on the day fixed should be carried away to the dwellings of the tenants before any more was cut.

Loughton
Rolls,
5 July, 1642;
13 Jan. 1651;
19 Jan. 1657;
9 Jan. 1661;
12 Apr. 1699;
27 Apr. 1724;
and many
others.

5 July, 1642.

De la Propriété, &c.
p. 280.

Such regulations are exactly what we might expect to find in a district in which the ancient rights of common were exercised, whether they were made by the ancient commoners themselves, or, as in the case before us, by the lord of the manor and his court. The circumstances under which they were made are precisely those described by De Laveleye, in his chapter on the Swiss Allmends. "When" (he says) "the population was small, relatively to the territory of which it disposed, it was not necessary to make rules. Each cut wood in the Forest according to his need, and pastured on the Alps all the cattle which he possessed. It is only later, when the number of coparceners becomes too large for an unlimited use, that the rules come in, and they are only made in order to preserve the ancient customs. These rules become more precise and severe, as the wants of the community increase."

Id. 306.

Loughton
Rolls, 11 Dec.
1596.
E. F. Com.
Evidence of
H. Bacon;
J. Spicer;
J. Mathews.
Rolls, 21 Sept.
1570; 11 Dec.
1596; 23 Mar.
and 29 Nov.
1699, and
others.

The prohibition in the Swiss communities against the sale of the wood of the communal forests out of the commune, also has its counterpart in the Loughton rule, that the lopwood was for the use and consumption of the inhabitants; and although one inhabitant might cut for another, and might receive payment for so doing, it was well understood that the loppings were not to be sold out of the Forest. This was observed until almost all the Forest regulations fell into disuse.

Another likeness may be found between the exercise of the Loughton right, and that of other ancient common rights in England. The custom of the people to turn out in numbers and begin their lopping immediately after midnight on the eve of All Saints' day, and the

tradition that the continuance of the right depended upon their doing so, could have no connection with a manorial right of estovers; but it has a strong family resemblance to the custom which prevailed after the gathering in of the harvest on the Lammas lands, when the people—often inhabitant householders—came forth, in what Sir H. Maine calls a sort of legalized tumultuary assembly, and threw down the temporary fences of the meadows.

De Laveleye,
De La Prop.
p. 125.
Maine's Vil.
Com. 86.
Rep. on Com.
Incl. 1844,
N. 3204.

The time for lopping in Loughton being in the winter, there was no interference with the fence month, upon the observance of which, when there was no custom to the contrary, the Forest officers insisted as strictly in wood-cutting as in other respects: the infliction of fines by the Forest Court for lopping and carrying wood in the fence month in the hundred of Ongar and in Loughton, being recorded so far back as the 14th century.

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2,
1323-4.
Inquisition,
39 Ed. 3,
1365.

But in the Hainault division of the Forest we find a group of adjoining parishes, in which, according to the claims of 1670 (the testimony of which is not affected by any presentments on the Forest rolls), there was a custom of lopping in the very middle of the fence month. These were the parishes of Barking, Dagenham, and Stapleford Abbots, in which the owners of many mesuages with land, and of the manors of Wangey and Markes, claimed fuel under the name of estovers, to be taken only of trees in the walk of East and West Hainault; or, as some of the claims have it, in Hainault and Chapple Hainault; yearly to be assigned by the ministers of the Forest or the keepers of the walk at the Feasts of

Cod. Dipl.
241.
Cart. Sax. 426.

the Nativity and of St. John the Baptist; and in the claim of Carew Hervey or Mildmay, lord of the manor of Markes in Barking and Dagenham, it is said that such estovers were commonly called "A Christmas block and a Midsummer bough." An exactly parallel case is to be found in a grant by Ethelwulf of Wessex, in 839, of freewood, according to ancient custom and ordinance, to be taken in summer "in the common wood, which we Saxons call '*gemennisse*.' " It is certain that such a right could not have originated in a Royal Forest after the introduction of the fence month, and that this right in Hainault must have arisen before the district became subject to Forest law.

Lyson's Env.
of London:
Surrey, p. 519.

The rights of cutting wood on the wastes of the manor of Wimbledon, in Surrey, were of the same nature as those in the Forest of Essex. According to a survey made in 1612, there were 500 acres of wood in the manor; and the regulations concerning the rights of lopping strongly resemble those made in Loughton.

See the pro-
ceedings set
out in Man-
wood, ch. 20.

The county of Surrey, part of the Forest of Windsor in the reign of Henry III., was disafforested in the reign of Edward III.; but the lopping rights, notwithstanding the loss of the protection afforded by the Forest laws, appear to have subsisted for more than 250 years later, and were at last destroyed by the felling of the trees. The common woods in Putney and Roehampton were cut down about 1601, and there are very few entries in the rolls respecting the cutting of wood after the reign of James I.

Extracts from
Wimbledon
Court Rolls,
Ed. P. H.
Lawrence,
p. 390.

Id. pp. 51, 71,
97, 101, 107,

In Wimbledon the customary tenants holding a

virgate of land were said to be entitled to common rights, each having a certain quantity for every virgate which he occupied, though it seems that the free tenants also claimed the right. As in Loughton, the cottager was a special object of attention. In the reign of James I. he was forbidden under a penalty to carry his estovers from the common otherwise than on his back. But in 1649 it was declared, that the right of every cottager who was a copyholder, was to have once a year one cartload of crop wood from off the pollards of the commons.

117, 123, 163,
167, 207.

Extracts, pp.
91, 107.

Id. p. 191.

Survey of
Manor, 1649.

Inhabitants and under-tenants, also called “under-sets” or “inmates,” are mentioned in the same manner as in Loughton. The height at which the trees might be cut was fixed at five, and later at nine, feet. The wood was not to be carried out of the manor, or used for trade purposes. The trunks of the trees might not be cut, nor the “spraye” left on the common, contrary to the rule in Waltham Forest, where the Forest officers required that it should be left for the use of the deer; but the Wimbledon rule was made long after the removal of the deer. At various times in and after the reign of Edward VI. the cutting was suspended during certain periods; and persons were appointed at one time to cut the wood for the commoners, and afterwards to give them directions as to the places from which it was to be taken: a regulation which would have prepared the way for setting aside permanent fuel assignments, like those in Epping Forest, which I am about to describe.

Extracts,
pp. 71, 81, 83,
95, 165.
Id. pp. 79, 97.

Id. pp. 47, 79,
95, 105.

Id. pp. 122,
157.

Id. p. 100,
temp. Edw. 6.

Id. pp. 91, 99,
127, 140, 201.

Id. pp. 161,
179, 186.

Besides the Loughton and Hainault customs already mentioned, there were at the time of the disafforestations,

both of the Epping and Hainault divisions of the Forest, many private rights of lopping in the wastes in certain parishes. These were known as fuel assignments, and later merely as "assignments." In Epping Forest they existed in Waltham, Sewardstone, and Upshire, and they were once attached to ancient messuages, and the lands held with them. They doubtless represented ancient rights of lopping, to satisfy which the wood within certain districts had been assigned; the assignments having at first been temporary, and afterwards permanent.

Ch. For. Proc.
Waltham.
6 Car. I.

Evidence of the existence of the ancient rights, for which these assignments were substituted, is to be found in the claims made in 1630 by the men and customary tenants of the hamlet of Sewardstone, part of the manor of Sewardstone; and in 1670 by the men and inhabitants, both free and customary, in the same manor, and the customary tenants of the hamlet of Upshire, parcel of the manor of Waltham, of rights of estovers to be assigned by the ministers of the Forest; the Sewardstone claim of 1670 specifying, that the right, like that which prevailed in Loughton, was to cut from the Feast of All Saints to that of St. George; and that the wood was to be carried away on a sled, with two horses for each turn only.

15th Rep. of
L. R. Com.
1793, App.
No. 12.

In the 19th century, we find these or similar rights enjoyed in Waltham, Sewardstone, and Upshire, in the form of permanent assignments; those in Sewardstone being known to have been created by agreement between the lord of the manor and the owners of ancient copyhold tenements, in lieu of the right of the tenants to take fuel from the waste woods of the manor.

In Waltham Holy Cross, including Upshire, there were 32, and in Sewardstone originally 33, of such assignments; each being marked and distinguished by one or more letters on the parish map.

15th Rep. of
L. R. Com.
1793, No. 12.
E. F. Act,
1878, Sched. I.

The Hainault assignments were identified in the same manner. There were 34 of them in Barking, and 39 in Dagenham, each containing 5 loads or 500 of faggots, cut only from the loppings of pollard trees; of which an immense number were cut down after the disafforestation.

15th Rep. of
L. R. Com.
1793, No. 10.
E. F. Arbitrn.
A. Savill.

The assignments in this part of the Forest had not at that period, like the assignments in Epping, become absolutely permanent. So late as the year 1829, they were made yearly in Barking, on or about Candlemas day, by the delivery through the Steward of the Forest, of a ticket bearing the distinguishing letter of the assignment. At the time of the disafforestation, the practice was for the Crown keepers, in the month of November, to mark off the place of the assignment from which the fuel was to be taken; and when the faggots were set up, the keeper checked the quantity before they were carried away. Such an arrangement evidently tended towards the adoption of permanent assignments. These were said to have come into use in the Epping division to save the expense of marking off the assignments every year; and it was doubtless under similar circumstances, that the once temporary allotments in open fields and Lammas lands became permanent.

Attachment
Rolls, 28 Apr.
1829.

E. F. Arbitrn.
A. Savill.

The fuel assignments were not inclosed; their boundaries were roughly shown by marks cut or painted on the trees, and sometimes by posts. The loppings

Id. Charles
Hatherill,
A. Ruddock.

E. F. Arbitn.
P. Mills, 145—
153;
Salmon, 579.

H. J. Hatherill,
C. Hatherill.

Barrett,
Salmon,
G. Banks.

Symondson,
Barrett,
G. Banks,
Hunt,
Mills,
H. J. Hatherill.

Symondson,
Mills,
Taylor.

Attachment
Roll, 16 June,
1753.

15th Rep. of
L. R. Com.
1793, No. 10.

Attachment
Roll, 7 April,
1613; Camb.
MS. fo. 27.

originally were not allowed to be sold; and in a notice issued by the Court of Attachments in 1787 it was said that great damage was done to the Forest by the sale of assignments to strangers, who cut wood under pretence of the assignments contrary to ancient usage. But in later times the assignments were dealt with by the owners at their pleasure. They were let for terms of years, annexed to any property, or held, sold, and conveyed separately; and though originally granted only for fuel for particular houses, the produce was used for all purposes, and was sold either in or out of the parish.

But the manner of cutting was practically the same as in Loughton. It began at midnight on the 11th November, and ended on the 23rd April. The branches of the trees, oak, elm, hornbeam, and beech, were to be cut at the height of six or seven feet from the ground, all that grew lower being Crown property as food and cover for the deer; the trunks of the pollards belonged to the lord of the manor;¹ and it was forbidden to head spear oaks and crabs, and to lop bushes; the transgressor against this rule being liable to have his assignment suspended for three years.

In Hainault the assignments were set out at Candlemas (Feast of the Purification); the Christmas wood was to be carried away before that day, and the livery wood, free wood, and spray by the 1st June, on pain of forfeiture. Afterwards the general rule was to make the assignments before the 29th January, and to cut and

¹ They were sometimes taken by the owners of the assignments; but this was one of the results of the general anarchy which prevailed in the Forest.

carry them away between the 1st of February and the 5th April.

Notices by
Court of
Attachments,
18 June, 1787,
and by
Steward,
circa 1812.

There was yet another kind of wood right in the form of so many cartloads, or other fixed quantity of wood out of the Forest. Grants of such rights, attached to certain estates, were common in the Weald of Kent and other forest districts, and may be traced back as far as the 9th century. So far as can be judged from the claims, they were not very common in the Forest of Essex. Claims were made in 1630 and 1670 by the owners of the manor or farm of Pyenest in Waltham (a former owner of which was found in 1632 to have sold little oaks and underwood to the value of 40*l.*) of 10 cartloads of wood and underwood for fuel, in Waltham Great wood, by view and livery of the Ministers of the Forest; besides the ordinary right of pollarding. These rights were probably represented by one of the assignments already mentioned, which was held with Pyenest Farm.

See Cod. Dipl.
234, 267, 276,
292. Cart.
Sax. 411, 513.

1630, No. 70.
1670, No. 66.

Treas. of Rect.
Misc. For.
Rolls, B. 153,
Roll 37.

There was also a custom in Hainault Forest, that every poor widow in Barking and Dagenham within the Forest, not receiving parochial relief, and whose husband had been dead for one year, should have one load of wood yearly on Easter Monday, from the King's Forest or King's woods; or in lieu of it 8*s.* in money, to those who could not procure a team to carry the wood on that day.

14 & 15 Vict.
c. 43,
F. F. Arbitn.
Evidence of
A. Savill.

I have found no document which throws light upon the history of this custom; but grants of logs and dead

De Laveleye,
De la Propriété, p. 288.

trees to widows are recorded in the rolls of the Court of Attachments in 1718, 1719, and 1720. It may possibly have been the remnant of a custom analogous to that which, it is said, still prevails in the canton of Glaris, in Switzerland, by which the rights of deceased members of the community are continued to their widows.

The rights of lopping in the Forest of Essex have been thus minutely examined, because it is only by studying them that we can understand their connection with the right of common of pasture, which was, and still is, exercised over the great waste of the Forest, and the light which they throw upon its nature and origin.

The consideration of that right and of the right of pannage, will form the subject of the next chapter.

CHAPTER VI.

The Pasture and Pannage Rights.

"Wee saye and p'sent, that time out of mind, all persons Inhabiting
 "wthin the Forest of Waltham, which have right of Comoning bye theire
 "lands messuages or tenements, have had comon of pasture upon the
 "said Forrest and Wast Soyle with all Comonable Cattell,"¹



HIS presentment, made by the Regarders of the Forest at the Swainmote of 1630, may be considered to have been the charter of the Forest commoners, until their rights were more exactly defined by the decree pronounced by Sir George Jessel in 1874.

The existence of rights of pasture in woods in England as early as the 8th century, is shown by the record of a synod held at Clofeshoas,² A.D. 825, at which there was a discussion about a forest pasture at Sutton, in Worcestershire, where the swainreeve had driven the pasture and the wood, which was alleged to be subject to ancient right; and reference was made to a decree about the same matter in the time of Ethelbald, who reigned in Mercia between 716 and 757.

Cod. Dipl.
 No. 219.
 Cart. Sax.
 No. 386.

¹ Regard Roll, 14th September, 1630, Chancery Forest Proceedings, 6 Car. I.

² Commonly supposed to be Abingdon. See Pearson's Historical Maps of England, ed. 2, p. 39.

See Cod. Dipl.
Nos. 86, 179,
198, 281, 420,
432, 1003,
1041.
Cart. Sax.
160, 407, 496.

In ancient charters, also, we read of pasture for sheep, for swine, and for all kinds of animals, in common woods, marshes, and other places; of plain and wood to be enjoyed in common pasture, and often of rights of feeding for a fixed number of swine or cattle.

Seebohm,
Engl. Village
Communities.

At the remote period to which these rights have been traced back it is probable that almost all the cultivated lands in England, except parts of the lords' demesne lands and of the assarted lands, were held by communities, which for some time before the Conquest appear to have been already in a state of villenage under a superior lord; the lands held by the communities being managed and cultivated under arrangements, which already existed in England in the 7th century, and which are not yet extinct.

Laws of Ine
(Mercia), § 42.

The lands were divided into open fields, of which several—usually three—lay together, being only separated by a strip or balk of turf. Each field was divided into acre or half-acre strips; every strip in the same field, was cultivated at the same time and in the same manner, and was fallow in the same year; and on a certain day—usually Lammas day—the temporary fences of dead¹ wood, which were placed round the cultivated open fields, were removed, often with shouting or other ceremony; and the cattle of the owners of the strips, and in some places of the other inhabitants of the vill, were allowed

¹ The reader will observe the special force of the term “quick hedge” in this connection as opposed to a fence made of dead wood; and the transfer of the word “quick” from the hedge to the plant of which it is formed. The right to cut wood for fences is often mentioned in ancient records.

to pasture upon the land in common, until the following seed time, or during the year of fallow.

There was also, as we have seen, common of wood in wooded districts; there were meadows, divided like the arable lands into strips or lots, and which in the same manner were open to the cattle of the commoners (who in some cases were the owners of the common field strips, and in others the inhabitants of the parish) between hay harvest and the time when they were shut up¹ for the growth of the next crop; and there was common of pasture in the uncultivated wastes, some of which, under the name of *lawns*, appear to have been specially used for the pasture of sheep.

There were several such lawns² in Waltham Forest.

¹ We still speak of "shutting up" a field for hay; but the old meaning of fencing it round has become narrowed to the locking of a gate.

² The word "lawne" was used to denote an open space in a wood. In the romance of Ywain and Gawain, supposed by Warton to have been written in the time of Edward VI, we have the lines—

History of
English
Poetry, vol. 3,
p. 104.

"A faire forest sone I found

* * * *

Oway I drogh me, and with that

I saw sone whar a man sat,

On a lawnd, the fowlest wight

That ever yit man saw in syght."

The original meaning of the word is in danger of being lost in these days of suburban villas and elaborate gardens, though in many parts of the country it is still rightly used; as it was by Gray in the "Elegy," and by Milton in speaking of—

"Russet lawns and fallows gray

Where the nibbling flocks do stray."

Of that which is now best known as a lawn he says—

"And missing thee I walk unseen

On the dry smooth shaven green."

Claims of
Toby Wood
and of Tenants
of Loughton,
1630.

Claim of Mild-
may, 1670.

Each of the vills of Leyton and Loughton had one, and a right was claimed to depasture sheep upon the latter. There were also lawns in Stapleford Abbot and in Lambourn; and one in the 17th century, called the New Lawne, near Chapple Hainault. The term "plain" was used to a late period in Hainault Forest.

There were also in many, and probably in all, of the Forest vills, open common fields and meadows. In the grant by Edward the Confessor to the monastery of Waltham, the district of Waltham and each separate lordship, including Woodford and Loughton, was conveyed with all its appurtenances, "fields, feedings, meadows, woods, and waters";¹ a form of words which may safely be assumed to refer to the agricultural arrangements which I have described.

Among the lands in Waltham granted by Edward VI. to Joanna Denny, and which formerly belonged to the monastery of Waltham, were the Cobbfield containing 280 acres; Sheepcote field 244 acres; Northfield 112 acres; Eastfield 200 acres; and other smaller fields; with the Ton [town] meadow, Northmead, and other open meads and fields. Of these Cobfield and the Town mead, with Patty pool mead, the Runnings, Broken marsh, and Chingford mead still remain. They are divided, as is usual in such lands, into narrow strips, the boundaries of which are marked by stones and posts;

¹ The words "campis, pascuis, pratis," and others used by the old school of conveyancers, and often supposed to be the fruit of their love of tautology, had a very respectable pedigree of upwards of 1,000 years; and each word even down to modern times, had a separate and distinct meaning.

some of these strips are of freehold and others of copyhold tenure; and from the 12th August to the 6th April in each year they are used as common pastures; in the case of the Town mead by all the ratepayers of the parish, and in the case of the Cobfield and the other meads by the owners of the strips of which they are composed. The arable common fields called Honey Lane Common, and Broomstick Hall Common, also in Waltham, were inclosed in 1864.¹

As to Waltham Marsh, a long account of the contest about the right of pasture over it, between the people of Waltham and Simon the Abbot, in the 13th century, is given by Fuller; who tells us how in 1245, the men of Waltham came into the marsh which the Abbot and Convent formerly enjoyed as several to themselves, killed four mares worth 40s. sterling and drove away the rest; how in the next year on the Thursday before Easter they went to the Abbot in the name of the whole village, and demanded of him to remove his mares and colts out of the marsh; how the Abbot refused, adding withal that if his bailiffs had placed his cattle otherwise than they ought, they might do well to have it amended; but deferred the matter till the Tuesday after Easter; how the men and women of the town then came to the gate of the Abbey to receive his answer, and were told that he was going into Lincolnshire, and desired them to be patient until his return; how, neither respecting his spiritual holiness nor the temporal greatness of the

Church History, Waltham Abbey, p. 9.

¹ For information as to these common fields and meadows, I am indebted to Mr. Hubert Gough, of Waltham Abbey, who has the custody of the parish map upon which they are marked.

King's brother Richard, Duke of Cornwall, who was present, they railed at and reviled the Abbot, drove out his mares and colts, drowned three of them worth 20s., spoiled ten more to the value of 10 marks, and beat the keepers who resisted them, "even to the shedding of blood."

Then on the Abbot's return from his journey the townsmen desired a "love day," submitted themselves, and offered to pay him damage; but the next day they went with their wives and children to the King in London, accusing the Abbot that he would disinherit them of their right, bring up new customs, take away their pastures, and eat them up to the bones.

The Abbot then excommunicated them; whereupon they impleaded him at law for appropriating their commons; but the Abbot, after much pleading, made his own right, and the townsmen's not, to appear; who at last, at the King's Bench, were glad to confess that they had done evil, and were amerced 20 marks, which the Abbot remitted, and assoiled them from excommunication.

Exch. Queen's
Remem-
brancer,
Escheators,
Essex and
Hertford.
3 & 4 H. 8.

In 1512, however, it was found by inquisition that all the tenants and inhabitants within the manor of Waltham had common of pasture in the Great Common Marsh for their cows and geldings; and the marsh is still used in common by the ratepayers of the parish throughout the year, the marsh wardens being appointed by the Court of the lord of the manor, who is the owner of the soil.

Lyson's Env.
of London,
vol. 4, p. 204.

Again, in Walthamstow there were in the 18th century 350 acres of open field land, mostly pasture;

and 246 acres of such land in the same parish, consisting of Higham Hills Common Field, Mark House Common Field, and Church Common Field, were inclosed about the year 1846.

The existence of common fields and of a common mead in Woodford is shown by a Forest claim in 1670, and by the Court Rolls of the manor in 1683; and there were common meadows in the reign of James I.

In the 19th century there were inclosures under the Inclosure Commissioners of 700 acres in Chigwell; 350 in Chingford; 534 in Epping; 360 in Leyton; 166 in Holyfield and Upshire, hamlets of Waltham; 667 in Wanstead, and 396 in Woodford; and as all the open wastes in those parishes and hamlets were forest wastes subject to the Crown rights, and (with the exception of the unlawful inclosures) still remained open at the time of the recent litigation, the lands so dealt with by the Inclosure Commissioners must have been common field and meadow lands.

There were also large common fields and meadows in Nazing and Roydon, which were inclosed in 1854 and 1855, and of the rights over which we have full particulars. So much of them as lay in Nazing and the hamlet of Roydon were within the Forest; but other parts in the parish proper of Roydon were beyond it. The arable field called Stoneshot Common Field, and the meadow land called Nazing Mead, lay partly in one and partly in the other of the two parishes, and were not part of the waste of any manor. Stoneshot Field, containing more than 130 acres, with several other smaller common

Parliamentary
Papers,
vol. 24, 1846.

Claim of Lady
Eleanor Rowe.
Court Baron,
7 May, 1683.
Grant to Rob.
Wrothe, 11
Jas. I. cit. St.
P. Dom.
Jas. I, vol. 202,
No. 24.

Return of
Inclosures in
Essex to
1 March,
1843.
Parliamentary
Papers, 1843—
1848, No. 325,
p. 23.

Driver's Rep.
30 Nov. 1854,
and

Wetherell's
Rep. to Incl.
Commis-
sioners,
18 June, 1855.

fields in Roydon, were in the harvest years stocked with cattle by the occupiers of the parishes from the gathering in of the harvest till seed-sowing (6th November to 13th February), and also during the whole of the fallow year. In Nazing Mead, which contained more than 260 acres, the part owners mowed their strips of land, holding them in severalty from 14th February (Old Candlemas) to 13th August (Old Lammas); from which time the same commoners who stocked Stoneshot Field, also stocked the mead with cows till 12th November (Old All Saints); being the same day upon which the wood-cutting began in Loughton on the Waltham assignments, and in other Forest villis; and then with sheep till 14th February.

Another tract of land called Nazing Marsh was subject to 669 cowleazes, *i.e.*, rights of cow pasture (A. S. "læswe"¹), some of them belonging to the persons who stocked the other commons. These cowleazes gave rights of pasture from the 13th May (Old St. Philip) to 6th July (Old Midsummer Day, the "Nativity"); after which the same commoners who stocked the field and the mead (except the tenants of the three manor farms) turned in their cattle till 11th or 13th January (the old day of the Circumcision). From that time the owners had exclusive possession until May. The Forest Reeve had no jurisdiction over any of these lands, and they were not affected by the fence month. In the two parishes there were also various pieces of uncultivated pasture upon

Cod. Dipl.
No. 86.

¹ Hence *leasowe* among the general words in old conveyances. Grants of feed for a fixed number of cattle were in use among the Anglo-Saxons as far back as the 8th century.

which the same commoners and the copyhold tenants of the manors had ordinary rights of common for cattle levant and couchant,¹ except during the fence month, or (as in the case of Broadley Common) a stinted right of pasture. These pieces were no doubt originally continuous with the great Forest wastes, but had become separated by inclosures; for Nazing parish and Roydon hamlet were within the bounds of the Forest as settled in 1641; and the fact that each of them had its Forest Reeve and Fourmen, and a Forest cattle mark, shows conclusively, that these like the other Forest vills, had pasture rights over the great Forest waste.

R. C. Driver's
Report, 22
June, 1855.

Supra, p. 179.
Attachment
Rolls,
4 Sept. 1742;
19 Aug. 1799.

These two parishes, therefore, had their own agricultural system: the large arable field and some smaller fields for corn; the great mead for hay; both for common after harvest and during winter: for summer pasture the 669 cowleazes on the marsh (this number having been probably fixed at some time when it was found necessary or desirable to prevent any further increase of the commoners); and in addition, the right of pasture upon the uncultivated Forest waste.

Nazing Wood was originally inclosed in 1229 by the Abbot and Canons of Waltham Abbey Cross under a licence granted by Henry III., with a little ditch and a low hedge, so that the wild beasts might go in and out;

Plac. For.
1277, 5 Ed. I.
Charter of
Abbot of
Waltham.

¹ The meaning of this phrase is, that the right of the commoner was limited to such cattle as were rising up and lying down upon the land which gave him the right of common. According to legal interpretation, it denotes the number of cattle which that land would maintain during the winter months.

Ch. Inq. post
mortem,
13 Ed. I.

and when, in 1285, Edward I. allowed them to make it into a park with a deep ditch and a high hedge, it was ascertained by an inquisition that it was then subject only to the rights of common of Sir Robert Fitzwalter, the lessee of the Abbot, and of the tenants of Nazing who were his villeins, and who no doubt were the representatives of the ancient community.

We have, therefore, all the circumstances necessary to account for the origin in the Forest of Essex, independently of the Forest laws, of the general right of common over the wastes.

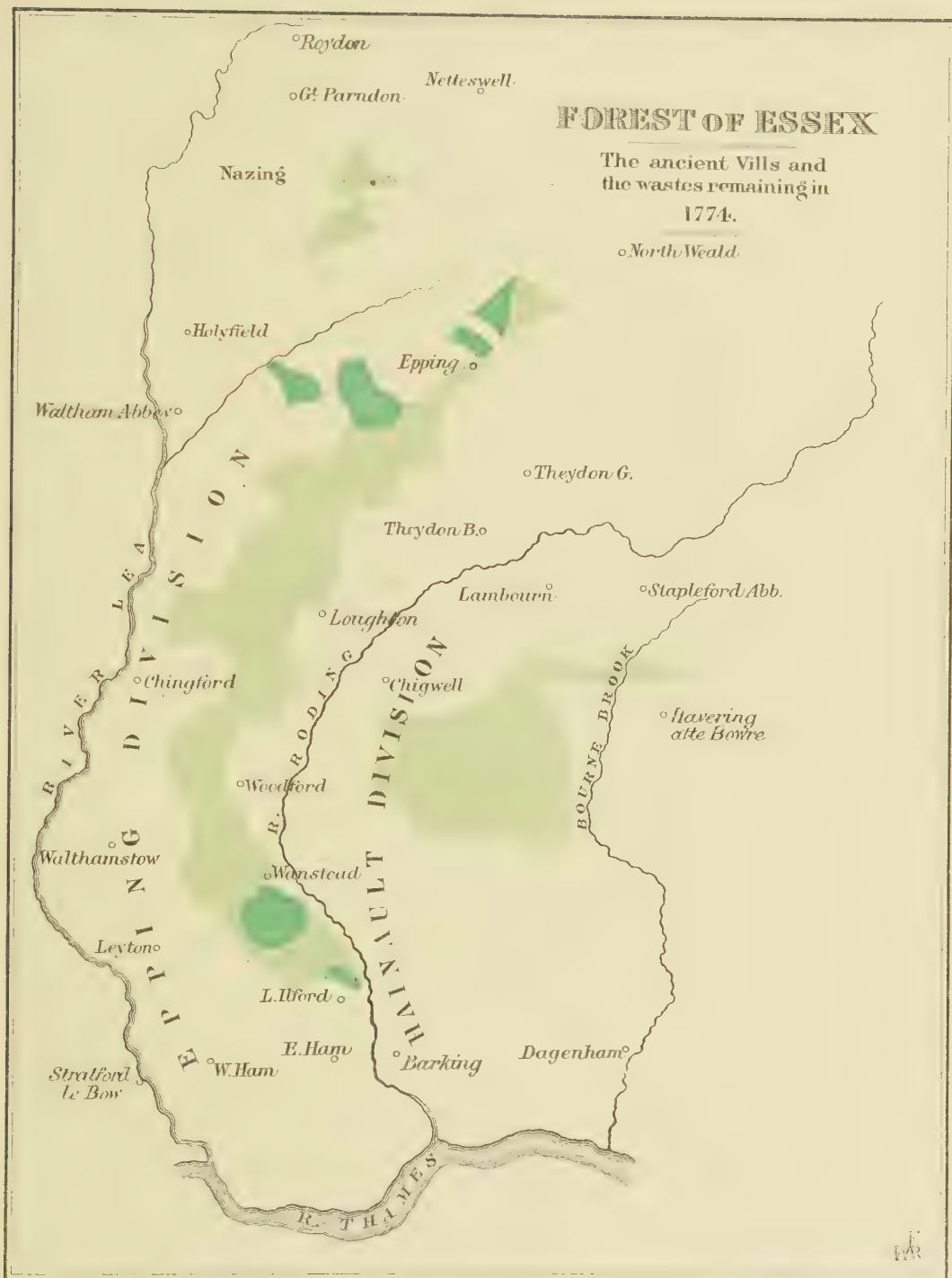
We find one belt of villis, bordering upon and surrounding the great waste of the Epping division of the Forest; each vill using its own common woods, and turning its cattle upon its own open fields and meadows after harvest: and another belt of villis similarly placed as to the Hainault waste; and, if we may believe the evidence of the claims, lopping in the Forests during the forbidden month. The people of these villis must have used the wastes which adjoined their lands for pasturing their cattle during the summer; and even if the share of each vill in these wastes had been fixed, which is very unlikely, it is certain that the boundaries would not be fenced.

Each vill would naturally appoint a Reeve to look after the cattle of its own people; and the result, with the slight modifications caused by the introduction of the Forest laws which will presently be described, would be precisely the state of things which, under the protection of those laws, continued to our own time.

FOREST OF ESSEX

The ancient Vills and
the wastes remaining in
1774.

North Weald



To face page 274.

Ancient Villis and Remains of
Great common Pasture in
COLNEIS HUNDRED.

From Cary's Atlas,
1807.



It is observed by Nasse, and the writers whom he cites, that Kemble was unable to prove the former existence in England of the ancient Teutonic association called The Mark: and that there is but one English document, and that of doubtful authenticity, which expressly states that several villæ and villatæ had a share in the common pasture. This document refers to the "*ymene morlese*" (*Anglicè* common moor pasture) of the vill of Ewelme, in a meadow with the three other vills of Somerforde, Pole, and Kemele.

Nasse, Agl. Community of Mid. Ages, 14. 2^d.
See Kemble's A.-S. ch. 2.

Cod. Dipl. 355, vol. 2, p. 179; vol. 3, p. 408.
Cart. Sax. No. 673.

There is, however, the case of the pasture in the hundred of Colneis, in Suffolk, which was common to all the men of the hundred.¹ This pasture must have formed the central part of the hundred. A belt of vills of Anglo-Saxon date, all mentioned in Domesday, lie around the sides of it, which are bounded by the river and the sea, and surround the centre, just as the Waltham vills surround the Forest pasture. Whether and to what extent the communities which shared these common pastures in Suffolk and Essex were under a common government we have now no means of knowing; for such jurisdictions have long since been merged in the manorial courts, and even in the parish vestries, as the nomination of the Forest Reeves by the latter, may serve to remind us. But it is worth while to call attention to the fact, that the use in the district of the word "mark" is not confined to

See De Laveleye, p. 119.

¹ "In hundret de Colenes est quedam pastura comunis omnibus hominibus de Hundret."

"Men" was equivalent to tenants. "Pro se . . . et hominibus, sive tenentibus suis," &c.

Domesd. Suff. fo. 339b. mentioned in Hund. Rolls, vol. 2, p. 197.
Cod. Dipl. No. 420.

Cod. Dipl.
813.

boundaries; it also occurs in the name of the manor of Markes, in Hainault, which lies partly in and partly beyond the Forest; and the Markhouse Common field was the name of an open field in Walthamstow. Parts of the boundaries of Upminster and of Lambhythe, in the Confessor's grant to Waltham, and of the Royal Forest in Hainault, were Markdykes; and these last were perhaps only used in the simple sense of boundary marks. But something beyond a physical boundary is suggested by the description in two places of the limits of the estate, as running along the mark—*andlang mearce*.

I have not met with any records which mention the right of pasture in the Forest of Essex, either during the Anglo-Saxon period or for many years after the Conquest. But evidence of its existence may be found in the numerous gates or hatches, traces of which have been preserved in records and old maps, and sometimes in the names of places. These were particularly numerous in and around the ancient Forest district. They were used to prevent the cattle which pastured on the Forest wastes from straying on to the roads. Of those mentioned in the note¹ the *nine* which are printed in *italics* were

¹ Becontree hundred.
Abney hatch.
Albright hatch.
Alderman's hatch.
King's hatch.
Fulwell hatch.
Mark hatch.
Potter's hatch.
Suffeilde hatch.

Waltham hundred.
Chingford hatch.
Epping hatch.
Freeman's hatch.
Ongar hundred.
Æffa's hatch.
Kelvedon hatch.
Newport hatch.
Old hatch.

boundary marks of the lands given by Edward the Confessor to the monastery of Waltham in 1062; and may be taken to show the existence at that time of a right of pasture over the wastes, protected by regulations made either by the authority of the communities which owned the cattle, or by the officers of the Forest, if it was then established as a Royal Forest.¹

The laws attributed to Canute, state that oxen, § xxvii. cows, and the like were within the Forest, and under the care of its officers, though they did not belong to it; a phrase which exactly describes the position of the commoners' cattle through the succeeding centuries.

These laws do not mention the fence month, which was probably introduced into the English Forests during the Norman period, and which materially affected the rights of the Forest commoners. Its object was to preserve the deer from disturbance in fawning time, but originally it does not appear to have compelled the exclusion from the Forest of the ordinary commonable cattle.

Ongar hundred—*contd.*

Stanway hatch.

Ward hatch.

West hatch.

Chafford hundred.

Pilgrim's hatch.

How hatch.

Chelmsford hundred.

Oldwood hatch.

Barstaple hundred.

Fox hatch.

Lexden hundred.

Kingswood hatch (Colchester).

Uncertain.

Ælsige's hatch.

¹ Orders for the repair of some of the Forest gates were made by the Court of Attachments in 1717, 1750, and 1751. Complaints of their bad state of repair were made to the Commissioners of Woods and Forests in 1839; and it was proved before the Epping Forest Commissioners that they had been allowed to decay, and were gone.

Wilkins' Leg.
Sax. 351-2.

§ 8.

Skene's
Regiam
Majestatem,
Forest Laws,
cap. I.
Houard, Cout.
Ang.-Norm.
vol. 2, p. 563.

The law of Richard I. provided that no cart should leave the highway in the King's Forest; and that there should be no swine there in the time of fawning (Foinesun, Fr. *faon*), *i.e.* during fifteen days before and fifteen days after the Nativity of St. John the Baptist (Old Midsummer day). It was at the beginning of the first of these fifteen days that the third Swainmote was ordered by the Charter of the Forest to be held, "pro feonatione bestiarum nostrarum."

The prohibition in Sir John Skene's Code includes both men and cattle, and contains some curious regulations: "It is defended and forbidden that anie man dweland within the wood, or anie other sall enter within the close or hanite parts of the Wood, with their beasts or cattell; except they have licence fra the Forester,¹ be fifteen days before the feast of *Saint John the Baptist*, and be fifteen days after the said feast, under the paine and vnlaw of aucht kye (cows). And after that time is by past, the aucht kye sall nocht be payed: except the beasts be found be the keiper of the Forest with ane present keiper, haueand fire, ane horne, or ane hound. Or gif they be found in the Forest in time of nicht lyand, haueand ane horne, or ane hound, quhilk is called *Warset*: in that case lauchfall witnes being brocht, aucht kye sal be payed." The meaning seems to be, that a keeper or shepherd with any of these things, might be

Dict. de la
Coutume de
Norm., Art.
Forêts.

¹ Houard in his translation has mistaken the sense. He makes it appear that permission to enter the Forests could be given only during the fence month—"permission qui ne peut être accordée que pour un mois," &c.—whereas it was only during that time that permission was necessary.

supposed, because he had fire, to be camping out in the Forest; to be making a noise with his horn to summon his cattle, by which the deer would be scared; or to intend to chase the deer. In the same manner it was forbidden by the English Forest law to any person to follow the cattle while depasturing on the waste, which was called "Staff herding;" because it prevented the deer from feeding with the cattle, which were driven into the best grounds, so that the deer only got their leavings. There was a complaint of it in Waltham Forest in 1344, against one Nicholas Hyndman, of Barking; who (say the jurors) depastures his beasts by night in Munchenfricht within the covert of the Forest, and is accustomed at day break and also at other times by shouting, to drive his same beasts; chasing away the wild animals of the lord the King by his clamour out of the Forest.

Sir W. Jones'
Rep. 282.

18 Ed. 3, Pre-
sentments on
Inquisition.

The consequence of this regulation of course was, that the beasts strayed to all parts of the Forest, and the general practice of feeding over all the wastes was a necessary result. But the Forest gates, of which such early evidence is extant, prevented the cattle from straying into the lanes and roads; and as each beast bore the mark of its own parish, the Reeves could and did inform one another of the presence in their parishes, of cattle which had strayed from a distance, so that the owners had little difficulty in finding them.

The fence month is generally called the "forbidden month" in the records of the Forest of Essex, in the 13th and 14th centuries. Master John de Lucca, Canon

Exch. Treas.
of Rect. Pl.
For. 20 Ed. 1;
17 Ed. 2.

of St. Paul's, London, amongst other persons, was presented in 1292 for entering the Forest in that month, and cutting wood and furze; and Master John was fined 20s. for his trespass.

Ch. For. Proc.
Justices'
Inquiries,
6 Car. 1.

In and after the 17th century the notices of the fence month are very common, though the commoners do not appear to have always submitted quietly to it; for it was found in 1630 that "the Forresters have given warning att the churches for the Comoners to forbear to disturbe the deare wth there dogges and hogges in the fence month; and that the Comoners have then continued there cattell, both in the playnes and coverte of the Forest as at other tymes."

During the continuance of the fence month the right of common of pasture in the Forests was entirely suspended;¹ the commoners' cattle were driven from the wastes, and no strangers were allowed to enter the Forest without the licence of the Forest ministers.²

The Norman kings, by means of their Forest regulations, and apart from any title to the soil, had in fact assumed an almost absolute control over the afforested districts. The vert, as a general rule, might not be touched; the deer were the deer, and the pasture was called the pasture, of "the lord the King." The cattle of the commoners were driven off during the fence

¹ The decree of Sir George Jessel in *The Commissioners of Sewers v. Glasse*, provides for the fence month, by declaring that the right of the commoners was exerciseable according to the assize and customs of the Forest.

² In the New Forest there is also a time of suspension, from 22nd November to 4th May, called the "winter heyning."

month ; and at other times were branded with a mark, of which a Crown formed part, by Reeves, who were sworn in at the Forest Courts, and became Forest officers. It is not surprising that under such circumstances the nature of the ancient rights of pasture on the Forest wastes should be forgotten, and that the commoners' rights should be treated by the Forest officers as altogether subordinate to those of the Crown. It was even asserted by modern Crown lawyers, that the King had absolute power over them, by virtue of his right to keep upon the Forest as many deer as would consume the whole pasture. But the law, as stated by Manwood, was only that the commoners might put on such a number of beasts that the wild beasts might have sufficient feed ; and that upon complaint by the Forest officers of a surcharge, an inquiry should be made ; and so many beasts should be apportioned to each commoner as he might reasonably keep, after due provision had been made for the deer.

Rep. of New For. and Walth. For. Com. and opinion of Sir T. Plumer and Sir V. Gibbs cited there.
Ch. 14.

Nor has any record been found of an attempt by the Crown officers to interfere with the cattle depasturing in Waltham Forest, except in cases of surcharge by strangers or by uncommonable cattle. James I., who stringently enforced the Forest laws, warned persons not entitled to rights of common, *i. e.* inmates, servants, and strangers inhabiting out of the bounds of the Forest, to take their cattle out of the wastes ; and those who had rights of common to forbear to surcharge the wastes. And when, in 1615, he found it necessary to take measures for preventing the entire loss of the deer by reason of the great frost and snow of the previous winter, he did not

Proclamation, 1 Sept. 1614. Camb. MS. fo. 26 ; and Directions for ordering Waltham Forest, *Id.* N. D.

Proclamation,
16 Sept. 1615.

attempt to interfere with the cattle of the commoners, but only directed that there should be no surcharge or wronging of the grounds, and (perhaps referring only to the King's woods) suspended the pannage for swine.

Charge of C. J.
in Waltham
Forest, 1634,
§ 84. Camb.
MS. fo. 24,
§§ 82, 83, 84.

The pasture commoners did not, like the wood commoners, merely exercise their rights on sufferance, but were protected in doing so by the Forest laws; which made it part of the duty of the Regarders, and of the Grand Jury, to inquire whether any Forest officer for his own gain had suffered those who were not commoners to put their cattle into the Forest; had taken gifts or rewards to suffer strange cattle to take their common there; or had permitted men to surcharge the commons to the prejudice of the deer or the injury of the commoners. And while all other claims to exercise rights in a Royal Forest must have been made and allowed at the Justice Seat, it was admitted that no such allowance was necessary by the Forest law for the right of common of pasture; although the exception was said to arise from the circumstance that it was a matter of common right, because the deer fed on the commoners' lands.

Sir W. Jones,
Rep. 291.

It appears, in fact, to have been the policy of the Crown to interfere as little as possible with the ancient customs of the districts which were subject to the Forest laws. The presence of the cattle, unaccompanied by herdsmen, tended to the quiet of the deer; and as there were many Royal Forests scattered over England, in most of which there were probably ancient customary rights, any serious interference would have greatly increased the complaints against the Forest laws, and the difficulty of enforcing them.

Another regulation in Sir John Skene's Code provided that if any man dwelling near a Forest had been accustomed to allow his cattle to enter the Forest, he should for each of three times pay the Forester 4*d*. On proof of the fourth offence the fine was eight cows. And if the Forester were alone when the beast was found, it was his duty to make a cross upon the earth, or upon a tree, and to blow his horn¹ thrice. And afterwards he was to drive the beasts to the King's castle, and so the eight cows should be paid.

Skene's
Regiam
Majestatem,
Forest Laws,
cap. 2.
Houard, Cout.
Angl.-Norm.
vol. 2, p. 564.

This corresponds with the regulation which became part of the English Forest law, that only those whose lands lay within the Royal Forests, and could be fed upon by the deer, were entitled to use the Forest pasture. The charter of the Forest had saved the rights of certain commoners; whether of those whose lands were disafforested, or of those who had common in Crown demesnes, is not clear. But an ordinance of 1305 declared that "In right of them whose lands and tenements are disafforested by the perambulation, and who demand to have common within the bounds of the Forest, the intention

Ord. For.
33 Ed. 1,
st. 5.

¹ Houard's equivalent for the horn is "*manetum*," a little horn made of wood, used by shepherds to assemble their flocks, and giving a strong and harsh sound.

This is another instance of the ancient use of the horn in enabling a person placed in a doubtful position to justify himself. The laws of Wihtred, King of the Kentish men in the 7th or 8th century, also provide, § 28, that "If a man from afar, or a stranger, goes off the road, and neither shouts nor blows a horn, he shall be reputed a thief, to be slain or put to ransom." See also the laws of King Edgar concerning the holding of the hundred: "§ 8. An ox's bell, a dog's collar, and a blast horn; these three be each worth a shilling, and each is held to be an informer."

and will of our lord the King is, that since by the perambulation they claim to be quit of the pasture of the Forests, and that the beasts of the King cannot have their haunt or repair on the disafforested lands, as they had when the same lands were within the Forests, that such people ought not to have common nor easement within the bounds of the woods, nor of the lands which remain in the Forest."

"But if any of them which are disafforested by the purlieu wish to be rather within the Forest as they were before, than to be out of it as they are now, it pleaseth well the King that they shall be received into it; that they may remain in their ancient estate, and have common and other easement as they had before."¹

Considering the bitter complaints against the Forest laws by which the owners of the disafforested lands had procured their discharge from the Forests, the King's proposal to receive them back if they desired to enjoy their old rights of pasture, reads more like a grim piece of irony than an offer made in good faith.

A.-G. v. Hyde,
Exch. Car. 1,
Gillingham
Forest.
Manwood,
ch. 14, s. 1.

The right of pasture was therefore made dependent upon a corresponding liability to the burden of the Forest laws.

In the Forest of Essex, this rule was in full force, as appears not only from various entries, but from the fact that when the Forest boundary divided a parish, only

16 Car. 1,
c. 16, s. 9.

¹ In the Act passed in 16 Car. 1, for settling the bounds of the Forests, it was provided that the owners and occupiers of lands left out of the Forests, should enjoy the same rights of common within the Forests which they had formerly enjoyed, notwithstanding the ordinance made in 1305.

that part of the parish which was within the boundary had Forest pasture. It was so in Roydon, the hamlet of which only and not the rest of the parish, had a Reeve and pasture; and it was only those lands in Theydon Boys situate within the Forest, which were entitled to the right of common.

Presentments were often made of breaches of this rule. In 1374, William Ermytte, of Lattone (Leyton), who held no lands or tenements within the Forest, surcharged the common of the Forest to the banishment of the wild animals of the lord the King with five draught horses and colts, price 13s. 4d., and ten heifers, price 20s., against the assize of the Forest. Treas. of
Rect. Misc.
For. Rolls,
Inquisitions,
46—48 Ed. 3.

And in 1594, it was presented at the Swainmote, Bodleian Lib. that John Raymund and seven others, all of Rumford, “being menn dwellinge in the purlieus, havinge noe interest of Comon wthin the fforest, had thare Cattle gooinge wthin her highnesse wast of henholt wthin the sayd fforest in the xxxvth yeare of Her Ma^{ties} raygne.”

The directions for ordering Waltham Forest issued by James I., which declare that no inhabitant in the purlieus may common in the Forest (except for lands he holdeth within the Forest), any usage or prescription to the contrary notwithstanding; and the presentment in 1630, of a number of persons being all “purly men” within the liberty of Havering for the like offence, by the Reeves and fourmen of Barking and Dagenham, prove the continued observance of the rule. The liberty of Havering appears at this date to have been considered in the same position as to rights of common, as the districts which were strictly purlieu. But the vill of Camb. M.S.

Ch. For. Proc.
No. 153.
6 Car. I.

Registrum de
Visit Maner
S. Pauli,
Lond. Nastok.

Court of
Attachments,
14 July, 1739;
4 Sept. 1797.

Court of
Attachments,
8 June, 1770.

Navestock, which was partly in and partly out of the Forest in 1301, is recorded in 1222 to have paid to the King at the Court of Havering, from ancient times, 16*d.* for common of pasture, Havering being ancient demesne of the Crown and then part of the Forest. Traces of this practice are found so late as the 18th century. In 1739, the Reeve of Navestock was ordered to mark several beasts for two farms within the liberty, but only for the year; and application was ordered to be made every year to the Verderers for renewal of the permission. And in 1770, when the people of the liberty were presented by the Reeve of Barking for having agisted their cattle in the Forest of Heynault without having a right thereto, because the same were not marked, the Reevesmen of Dagenham answered, that it had been a custom for sixty years, for the people holding lands within the liberty of Havering and without the Forest, to be permitted to agist their cattle on the Forest on payment of 6*d.* per head.

The same practice of payment for the right of pasture in the New Forest, occurs in some of the parishes adjoining, which were probably included in its ancient purlieu.

Many entries recognize the right of holders of land in the Forest to depasture a number of beasts in proportion to their holdings; the usual presentment being, that some persons had surcharged the pasture, or the common of the Forest, or of the lord the King, to the banishment of the wild animals, or whereby they could not be sufficiently depastured, with so many beasts, of such a price, against the assize of the Forest;

it being sometimes added that the offender had no common or had surcharged beyond his tenure. An early instance of such a presentment is that against the Abbess of Caen in 1369, for surcharging the wood of Blackholley, part of her own possessions.

Regard of
Colchester,
Inq. at Hat-
field Reg.
43 Ed. 3.

The lords of the manors generally acquiesced in the Forest right of common. But about the middle of the 16th century, an attempt to dispute it seems to have been made by Lord Chancellor Rich in his manor of Wanstead. On the 29th December, 1550, the jury at the Manor Court presented, that John Wyberd and others overburthen the common with so many cattle to the grievous injury of all the tenants thereof within the manors aforesaid, *and they are none of them tenants thereof*. An inquiry was directed by what right they claimed common of pasture there, and it was presented that the inhabitants of Plaistow, Upton, and Stratford, had common there without right or title. The first and second of these places were beyond the legal Forest; but it will be remembered that by the presentment of the Forest Court in 1323, the Thames was declared to be the southern boundary of the Forest, and the true limits were in dispute until the year 1641. *Supra*, p. 35.

In 1563, like presentments were made as to persons belonging to Upton, Little Ilford, Ilford, West Ham, and East Ham; and again in 1574, it was presented that all the tenants and inhabitants of the manor from time immemorial, had and ought to have common of pasture upon the green or vert called Wanstead Heath, for all cattle, goats only excepted; which was contrary

to the rule that sheep were not commonable within the Forest.

Ch. For. Proc.
Waltham For.
6 Car. 1,
Bundles 137,
143.
Id. 10 Car. 1,
140.

Exch. Treas.
of Rect. Plac.
For. 17 Ed. 2,
m. 53.

But in 1630, the Regarders of Waltham Forest made the presentment placed at the head of this chapter, and which, with many others, was confirmed at the Swainmote held at Stratford Langthorne, on the 14th September in the same year; and was repeated at the Swainmote of 15th September, 1634. In accordance with it, were the numerous claims made at different times by the owners of Forest manors and lands. Such claims were made at the Justice Seat in 1323, by Edmund Earl of Arundell, Lord of Wolfhamston, and John le Palmer, monk, and guardian of the chapel of the lord the King of Berewe.

Presentments
on Inquisition,
7 Ed. 3.

The first relates to Hainault and the other to Writtel. Another entry ten years later, shows, like the Writtel claim, that the detached as well as the main parts of the Forest were subject to the Forest right of pasture. On this occasion it was presented that William de Impshall, and others, on the Saturday before the Feast of St. Michael in 7 Edw. III. came into the covert of Kyngeswoode (Colchester), with bows and barbed arrows, and then, against the assize of the Forest, made a certain drift of the catell of John Attewode and other tenants of Ordelye [Ardleigh], and La Milende, who claim common of pasture within the Forest aforesaid; and which cattle the aforesaid William and others chased to the Castle of Colchester through the middle of the covert of Hyneholt, to the detriment of the Forest aforesaid and the injury of the wild animals of the lord the King.

In the Epping division, in 1630, not only the successor of the lord of the manor of Wanstead, who disputed the general Forest right in the previous century, but also twenty-three other lords of manors and sub-manors; and in 1670, twenty-two lords, besides on each occasion a great number of commoners, claimed the right of common of pasture through all the wastes of the Forest; and the claims in Hainault are almost all to the same effect. Only the lords of a few manors and sub-manors in each division, viz., Loughton, Pyenest, Wangey, Wolfhamston, and Markes, with several commoners in Epping and a larger number in Hainault, claimed a right of pasture in their own manors or parishes, and by reason of vicinage¹ in the other wastes of the Forest.

The variety in the form of these claims shows an uncertainty as to the real nature of the right. Some are on behalf of the men and tenants, and some of the free tenants and copyholders of manors; others on behalf of

¹ Common by reason of vicinage is the right of the tenants of two villis or manors, the wastes of which adjoin, to allow their cattle, turned out on their own waste, to wander and feed upon that which adjoins it. It is considered to be an excusable trespass, which the lord of either manor may stop by fencing off his own waste from the other. It was held by Sir George Jessel in *The Epping Forest Case*, L.R. 19 Eq. 160, that the right was confined to the tenants of two adjoining villis or manors, and could not therefore account for the general intercommoning which existed in Waltham Forest. And it may be added, that inasmuch as the putting up of fences in the Forest without licence was illegal, the power of each lord by this means to stop the intercommoning, which is one of the principal incidents of the right of vicinage, was wanting. The right no doubt originally arose from the intercommoning of several communities upon the same waste, which has been already described; and was not then affected by the artificial rules which afterwards governed it.

tenants, freehold, copyhold or customary ; or of the men, free and customary tenants, and inhabitants of vills, towns, and parishes, or the men and inhabitants of ancient messuages in parishes. There are also many separate claims by the owners of ancient messuages and lands, or which expressly exclude the owners of new cottages and buildings ; an exception, however, which was possibly inserted with reference to the right of cutting wood, commonly included in the same claim.

But see Directions for Ordering Waltham Forest, temp. Jas. I, Camb. MS.

After 1630, there seems to have been no active opposition to the right of Forest pasture, though an occasional entry on the manor rolls, such as a complaint in 1653 against a Stratford man for keeping his cattle on the waste of Ruckholt manor, was perhaps made by way of protest. The right was finally established in 1874, in the great suit instituted for that purpose by the Commissioners of Sewers on behalf of the Corporation of London.

Commrs. of Sewers v. Glasse, L. R. 19 Eq. 160.

It will be observed that the presentment of the Regarders, in 1630, only asserted a right for all commonable cattle ; but did not state what kinds of cattle were commonable. The omission was doubtless intentional, because at this very time the question whether sheep were commonable in the Forest was pending in the Court of Exchequer. Otherwise it was well understood that the commonable cattle were "horse beasts, and neat beasts," the latter consisting of oxen, cows, heifers, and calves.

There is no mention of sheep in the Forest laws of Canute ; but the provision that the cutting of the knees

of sheep dogs was unnecessary, is some evidence that sheep were then permitted in the Forests; and a charter by Canute, contains a grant of a right to feed a flock of sheep in the woods.

Const. de For.
§ xxxii.
Cod. Dipl.
736.

At the date of the Domesday survey there were 1,452 sheep in the parishes of the Forest of Essex, for which Reeves were appointed from the end of the 15th century to modern times, and which appear to have always been part of the Royal Forest.

Sup. p. 177.

Of these sheep, 252, being the largest number in any of the Forest vills, belonged to West Ham, then held by William or Ralph Peverell and Robert Gernon, whose descendant, William de Montfichet, founded the Abbey of St. Mary, Stratford, in 1145.

Domesday,
Essex.

Morant, i. 13.

The monks largely increased the flock, and obtained a grant from Richard I., which was confirmed by Edward II., of a right to depasture 800 sheep by the greater hundred (120) on the pasturage in the under-wood, extending in length between the Frith, which was of the fee of Richard of Mountfichet, and Welcomestow (Walthamstow); and this right was claimed by the monks of St. Mary in 1323 and 1489, and by their successors, the owners of the manor of Woodgrange, viz. Dame Joyce Carewe and others in 1630, and Sir Harry Cambell in 1670.

Exch. Treas.
of Rect. For.
Pleas,
17 Ed. 2.

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2.
Duch. of Lanc.
Misc. Rec.
4 H. 7.

Henry de Hodeing, another landowner in Wanstead and Ham in the reign of Henry III., had also feed for 200 sheep in the Forest.

Morant, i. 29.

I think it may be inferred from these facts, that at or before the time of Richard I. the Crown, probably in

conformity with the Norman Forest laws,¹ had forbidden the pasturing of sheep in the Forest without licence.

Information,
A.-G. v.
Fuller,
Exch. Bills
and Answers,
Essex,
Car. I, No. 31.

Except a grant by Queen Elizabeth to Sir George Hervy and his heirs, of a right to common with sheep upon the wastes of Chappell Hainault and West Hainault walks, and which is said to have been repurchased by James I. for 600*l.*, I have found no notice of any other licences to feed sheep upon the Forest wastes.

But they were sometimes fed there without licence.

Exch. Treas. of
Rect. Pl. For.
20 Ed. I.

In 1292 it is recorded that Roger le Gaunt, of Wantham, a professed monk in the abbey, had surcharged the pasture of the King in his Forest, with his sheep, during half a year. Therefore he was in mercy one mark, whereof the Abbot was to answer by the pledge of Vin-

Presentments
on Inquisition,
7 Ed. 3.

cent the porter. And in 1333, Adam, the smith of Chigwell, surcharged the pasture of the wild animals of the lord the King in the wood of Hyneholt with 220 sheep, to the injury of the wild animals aforesaid. In other complaints of overloading the commons, sheep are mentioned with other animals; but it is not clear whether the objection was to kind or number. In 1489 one

Duch. of Lanc.
Misc. Rect.
Plac. For.
Waltham,
3 H. 7.

Alderton, a citizen of London, is said to have surcharged the common of pasture of the King in the Forest with sheep *beyond his tenure* contrary to the assize, which seems to imply a right to a limited number of sheep; but other presentments state that it is against the assize of the Forest. A few more presentments against sheep

Skene's Reg.
Maj. For.
Laws, cap. iv.
Houard, Cout.
Angl.-Norm.
2. 565.

¹ "Anent schiep found in the Forest before witnes quhither there be ane keiper or nocht, the forester may take ane scheip to his awne vse of the flock." Of sheep of the King's husbandmen or bondsmen the forester was to have one penny.

were made between this time and the end of the century. Then, in consequence of the loss of the proceedings of the Forest Courts, we have no more information about sheep in the Forest until the 17th century.

During the interval, the breeding of sheep in the country had greatly increased; and the putting of lands to pasture in order to feed them, was considered to be a principal cause of the distress of the poor. A statute of Henry VIII. states that some persons had 24,000 sheep, some 20,000, some 10,000, some 6,000, some 5,000, some more, some less; and it was provided that from Michaelmas, 1535, no person except as is mentioned in 25 H. 8, c. 13, ss. 1, 12, 1535. the statute, should keep more than 2,000 sheep by the great hundred, *i.e.*, 2,400 sheep.

In 1616, James I. issued a commission of inquiry Ch. Pat. Roll, 14 Jac. I, p. 1. (the return to which has not been found) into the surcharges of Waltham Forest. The commissioners were Sir William Ayloff, Sir Christopher Hatton, Sir Edward Coke, Thomas Fanshaw, and others. It was stated that the wastes and commons in the Forest, "being a Forest very near to our palace of Westminster, and many other of our mansion houses, and situate and lying as it were under our eyes," were surcharged and spoiled with cattle, as well commonable as not commonable, of divers kinds; that is to say, with oxen, cows, heifers, horses, geldings, sheep, lambs, pigs, and geese, as well of the tenants and dwellers in the Forest as of strangers.

In the directions for ordering Waltham Forest, which Camb. MS. no page. were probably issued by the same King, it is declared that neither sheep nor swine were commonable in the

Forest by the Forest laws ; but, as they had been long tolerated in this Forest, the laws were not to be pressed till some course had been taken about it.

Exch. Bills
and Answers,
Essex, Car. 1,
No. 31.

4th Inst. 298 ;
Manwood,
ch. 14.

This course was taken in 1628, when Sir Robert Heath, the Attorney-General of Charles I., proceeded in the Exchequer against Henry Fuller, of Chigwell, and others, for pasturing sheep on the Forest waste. It appears from the information filed by the Crown, that the contest upon this question had then gone on for many years. It was alleged, in accordance with the law as it was laid down by Coke and Manwood, that no man without a special grant can claim to common with sheep within a forest, the reason given by Heath being, that it is in respect of the dislike “which the Redd and fallowe Deare doe naturallie take of the sent and smelle of sheepe ; as also for that the sheepe do vndereate the Deare, and hurt and spoyle the coverte, and thereby prejudice and wrong the deare both in their feeding and layer.”

This was flatly denied by Fuller and his co-defendants, who said that “dayly experience p’veth the contrary ; and y^t it is an usuall thing to see a deere and a sheepe feed together in one quillet of ground, even upon one molehill together” !

The history of the matter, as given by the Attorney-General (which being *ex parte* must be received with caution), was “that the Inhabitants were restrained from commoning with sheep as contrary to the Forest laws during the reign of the late King Henry 8th of famous memory, and of all other preceding Kings which took delight and pleasure in hunting. But afterward that

Royall and Princlye pleasure being not so much esteemed by the late King Edward the Sixt (by reason of his minoritie), and by the two succeeding Queenes (by reason of their sexe), the lesse care of the due execucon of the forest laws consequentlie ensued, and the keeping of the Courts of Swainmote and Justice Seate became almost totallie neglected and disvsed; whereof the inhabitants of the said fforest as also the inhabitants of Enfield Chase (adioyning to it) taking advantage, did by degrees, especiallie towards the end of the raigne of the late Queene Elizabeth, encroach uppon the said fforest laws by comoning with sheepe . . . and the same so contynued untill the raigne of our late Sovereaign Lord of most happie memory, King James; in whom that Royall pleasure and delight in hunting and particular and speciall esteeme of the fforest of Waltham, being again revived," the King ordered the forest laws to be enforced; which the inhabitants opposing, and the records of the presentments and other proceedings of the Courts of Swainmote and Justice Seats being lost, recourse was had to the office of the Duchy of Lancaster for the forest proceedings relating to Enfield Chase; from which it appeared by recorded judgments and from legal proceedings that sheep were not commonable in forests: to which decisions the inhabitants of the Duchy forests and chases submitted.

He then states that proceedings were taken against offenders in the Court of Attachments for Waltham Forest, to which they submitted; but afterwards repenting, in the 18th James I. preferred a bill in the House of Commons to have their pretended right of commoning

with sheep established ; “ the successe whereof was, that that wise, grave, and just house . . . upon the first reading thereof in a very full howse, without one negative voyce did reiect the Bill ; and in detestation thereof, ordered and caused the same to be torne in pieces in the open howse then sitting in full Parliament.”

The offence charged against Fuller and the other defendants was, that in a contemptuous and presumptuous manner they put their sheep into the open and uninclosed grounds, wastes, woods, and coverts of the Forest, and particularly into those which lay within Chappell Henault and West Henault ; which were “ his Majesty’s own soyle and inheritance, and parcell of the possessions of his Crowne of England, and the very Gardeine of the said forest in respect of the delight and comodiousnesse thereof for the hunting and chasing of the Redd and fallow deare.”

Fuller and his friends claimed, as from time immemorial, common of pasture for horse beasts and neat beasts in all the wastes of the manors of which their lands were held ; and for sheep *on the lawns*, part of the manors, every year at all times of the year, and pasture and pawnage for their swine at all times of the year, except during the fence month. They said that common for sheep might be claimed by prescription in a forest ; they denied that the deer refused to feed with them, and declared that if the inhabitants were debarred of the right, it would tend to the utter subversion of the poor, and to the impoverishment of those of better ability, whose chief profit consisted of sheep, and who were at continual charge for the provision of the King’s house-

hold, and for his carriages and other services;¹ and the tithes and other profits thereof being a chief part of the maintenance of the ministers within the Forest, besides the loss to the King's revenue of the customs on wool.

At the Justice Seat held on 21st September, 1630, Fuller was presented for commoning with twenty sheep on Loughton walk in the Forest, the jurors submitting to the Court the question whether this was against the laws and assize of the Forest. The Court, consisting of the Earl of Manchester Lord Privy Seal, Lord Newburgh Chancellor of the Duchy of Lancaster, and Sir Thomas Edmondes Treasurer, as Commissioners,² after taking counsel with Sir Thomas Richardson Chief Justice of the King's Bench, and the Barons of the Exchequer, decided that it was, and Fuller was fined £13 6s. 8d., being the value of the twenty sheep at 13s. 4d. each. Several other persons were fined at the same time for like offences, but in sums much smaller in proportion to the value of the sheep; whence it seems that the Court intended to make an example of Fuller as the chief offender. John Allen of Chigwell, one of the persons fined for sheep, was also separately fined 10*l.* for having (as he acknowledged) said to Siggens, one of the jury, "that if any bill came to their hands concerning sheep, that you should be careful of them, for it was a thing that concerned all the county, and now it was upon the tryall."

This decision appears to have practically settled the rule that the commoning of sheep was illegal; for except

¹ This refers to the Crown's right of purveyance, abolished in 1660 (12 Car. 2, c. 24).

² Sir Humphrey May was joined in the Commission, but did not sit.

Chancery For.
Proceedings,
6 Car. 1,
No. 130.

that in 1653 and 1670, Mildmay and Barefoote, lords of the manor of Lambourne Hall, claimed common for sheep in Hainault Forest; and that in 1789, a person was presented for driving 100 sheep or more to feed in the Forest lanes (on which complaint they were ordered to be impounded), I find no further entries on this subject.

It will be observed that the claim of Fuller to pasture sheep in the Forest was confined to the lawns, as were almost all the other forest claims to this right. The probable explanation of the whole matter is, that these lawns were the home pastures of the ancient vills, upon which the inhabitants fed their sheep before and at the time of the Domesday survey; and afterwards, either because the landowners put their sheep upon the other wastes, or because the sheep were obnoxious to the deer, the claim was only allowed when a charter or long user could be shown to justify it.

The right to pasture sheep in the Forest was not claimed on behalf of the City of London in the action of *The Commissioners of Sewers v. Glasse*.

Manwood,
ch. 14, s. 3.

Regiam
Majestatem,
Leg. For.
cap. v.
Houard, Cout.
de Norm.
vol. 2.

It was always unlawful to turn out goats and geese upon the Forest wastes; to suffer them was "*ad magnum nocumentum ferarum forestæ*," because by tainting the pasture they banished the deer. The Scotch law of Sir John Skene provides that if goats be found three times in the Forest, the Forester may each time hang one of them by the horns on a tree; and the fourth time he may slay one of them, and leave his bowels in the place, in token that they were found there.

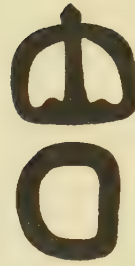




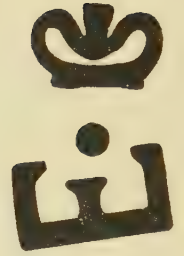
A—*Waltham Holy Cross.*



B—*Nazing.*



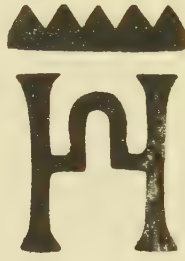
D—*Theydon Bois.*



E—*Epping.*



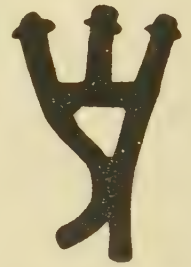
G—*Chingford.*



H—*Chigwell.*



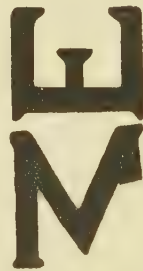
K—*Barking*
(*Maypole.*)



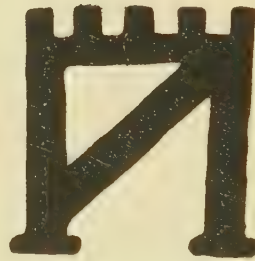
K—*Barking*
(*Crooked Billet.*)



L—*Dagenham.*



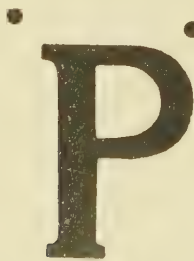
M—*Woodford.*



N—*Leyton.*



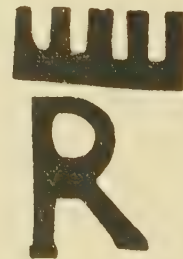
O—*Walthamstow.*



P—*Navestock.*



Q—*Wanstead.*



R—*Stapleford Abbot.*

Goats are seldom mentioned in the Forest records, but when found on the waste they were ordered to be pounded if not removed by the owner. Several persons were presented at the Justice Seat of 1323-4, for keeping goats (56 in all) on the Forest contrary to the assize. A licence to keep a goat in a Royal Forest is to be found in an 8th century grant by Offa to the Abbot of Canterbury.

Exch. Treas. of
Rect. Pl. For.
17 Ed. 2.
Attachment
Roll, 26 Aug.
1751.

Cart. Sax. 293.

It was the duty of the Reeves of the Forest parishes to mark with the Forest mark, the cattle belonging to their respective parishes which were entitled to feed upon the Forest wastes. The mark consisted of a letter surmounted by a Crown, for each parish, the letters running consecutively from A to R, without regard to the position of the parish on one or the other side of the river Roding, which separated the Hainault from the Epping division. A list of the marks in the Cambridge MS. book relating to the Forest corresponded, with the exception of some obvious errors, with the arrangement which was found to exist at or shortly before the commencement of the suit by the Corporation of London.

The original marks are for the most part eight inches in height, but in a few instances nine, and in one, only seven inches. Copies on a reduced scale of impressions from all the marking irons which could be found,¹ are given on the opposite page.

¹ Evidence was produced before the Epping Forest Commissioners that the lost irons contained the letters C, F, and I, for Roydon hamlet, and for the parishes of Loughton and Lambourne. The original mark for Stratford or West Ham could not be found. The mark substituted by the lord of West Ham is given on page 179.

See Attachment Roll,
30 July, 1748.

Attachment
Rolls,
6 Sept. 1718;
30 July, 1748;
8 July, 1749;
28 Oct. 1752;
7 Nov. 1761.
19 June, 1809,
Rep. annexed
to Draft
Minute of
Court of
Attachments.
Camb. MS.
fo. 43.

There was commonly but one iron for each parish; but in Barking, by reason of the size of the parish, there were two marking places and two irons; one of which marked the letter in its proper, and another in a reversed position. The iron of each parish was ordered to be kept by the Reeve only, no marking except by him or his assistant being legal. A report by a Walthamstow Reeve in 1809, mentions a suspected forgery of a Forest mark by a person in Hackney.

In addition, each commoner was directed to have a mark of his own besides the parish brand; and the Reeves were ordered to keep a book, in which were to be entered the number and several kinds of all such cattle as they should mark, with the names of their owners. Many such accounts are among the records of the Forest, but the Reeves often neglected to bring them before the Court of Attachments.

Camb. MS.
fos. 30, 32.

In 1630 and 1632, the bailiff of the Forest was directed to warn the constables of the Forest parishes, to inquire out the parish brand mark used and appointed for the branding and marking of cattle within the parish, and the book for booking the cattle marked; and it was probably in reference to the first of these orders that at the Swainmote held in 1631, William Cromphorne and William Wheeler, both of Sewardstone, were presented for keeping cattle on the waste at Chingford not marked with the parish mark, and for obstructing and refusing to allow the fourmen and Reeve to mark them, "in contempt of certain instructions by the late Chief Justice of the Forest aforesaid given by way of command in that behalf." A more serious offence was charged against

Ch. For. Proc.
Waltham,
No. 140, Pre-
sentments 8
and 9.

Id. Present-
ment 10.

the same persons for violently repulsing and maltreating the fourmen and Reeves, in doing their duty by overseeing that all the beasts depasturing in the wastes of Chingford within the Forest, were marked with the parish mark.

The usual practice was for the commoners to bring their cattle to be marked at a place within the bounds of the Forest and of the parish to which the cattle belonged. In Stapleford Abbotts there was no fixed place, and the marking was done at the residences of the owners. After being marked the cattle were turned out at the places most convenient to their owners, and might then roam over and feed upon any part of the Forest wastes.

*Com. of
Sewers v.
Glasse, Evi-
dence and
judgment,
L. R. 19 Eq.
151-2.*

The time at which cattle marking began in the Forest is unknown; but the above orders appear to show that the practice was then revived after having been for a time neglected. And something may be gathered from the marks themselves, the designs of which are by no means uniform. This may have arisen from clumsy repairs, though the original irons would be copied as closely as possible. But the position of the cross above the Crown in the letters A and Q, makes it likely that these letters, which belonged to Waltham and Wanstead, the property of great monasteries, were originally made before the reign of Henry VIII. And the absence of a mark for the liberty of Havering, and of any gap in the alphabetical arrangement, which might have been filled by such a mark, as well as the fact that the letters apply only to the parishes of the present

Forest and of Hainault, shows that the present arrangement is probably not older than the reign of Edward II. during which Havering was separated from the Forest, and ceased to have a free right of pasture.

Attachment
Roll, 12 Mar.
1723-24.

The marking originally took place four times in the year, viz., on the 1st and 2nd May, the 10th and 11th July, the 2nd and 3rd September, and the 7th and 8th November; which days were changed, after the alteration of the calendar, to the 12th and 13th May, the 21st and 22nd July, the 13th and 14th September, and the 18th and 19th November, or the Monday following any of those days which might fall on a Sunday. But many years before this change, John Taylor, the Reeve of Wanstead, an advanced thinker in his day, had been ordered to attend the Court to answer a complaint for marking according to the new style.

Id. 2 Aug.
1790.

Id. 2 June,
1755.

Id. 29 July,
1816.

Later, the 13th and 14th May and the 22nd and 23rd July, with the other days in September and November, were considered to be the proper days for marking.

See Attach-
ment Roll,
14 Oct. 1754.

It was sometimes complained that the Reeves marked irregularly, and for persons who had no right of common; which, as they had a fee of 3*d.* for every head of cattle marked, they were strongly tempted to do. The right of the commoner was properly measured by the capacity of his holding to support in winter, the beasts which he turned upon the waste in summer, and of this capacity the Reeves were likely to take a liberal view. In order to check this tendency the Courts of Attachment adopted the plan of measuring the right by

the rental, or as the practice was in Hainault at the time of its inclosure, by the rating of the commoner.

Hainault
Case, 9 C. B.
N. S.

The first notice of this arrangement appears in an account of cattle marked by the Reeve of Barking in 1713. The Court of Attachments was at this period very particular, in requiring such accounts to be laid before it by the Reeves after each marking, and fined and threatened to dismiss those who neglected to bring them; and in 1715, the commoners' rental appears in some of the accounts in a separate column.

Attachment
Roll, 10 July,
1713.

Id. 17 May,
1715; 15 June,
1723, and
passim.

It cannot be made out from the accounts whether any particular scale of rental had then been fixed. But in 1790 the following order was made:—"This Court observing, and many complaints being made against divers persons for storeing the Forest that have no right of Commoning, and many Irregularities committed by the Reeves and Four Men, It is ordered by this Court, that the Reeves, within their limits, shall mark for every person that hath right of Commoning on the said Forest, Two Cows for Four Pounds per annum Rent, or one horse, and no more, and so proportionable for a greater Rent. But such Reeves may mark for every poor Cottager, having a Family and right of Commoning as aforesaid, One Horse or two Cows, although such person does not hold Four pounds per annum." The Reeves were also ordered to give notice of the marking days in their respective parish churches on the previous Sundays; and to return at the next Court after each marking day, an account of the cattle marked, and the names of the owners and the value of their rents; and no person was

Rolls, 2nd
Aug. 1790.

to pretend to mark any cattle other than for the tenants inhabiting within their respective precincts.¹

In that part of the above order which relates to poor cottagers, we see a recognition, corresponding to that which occurs in the Loughton regulations concerning the common wood, of the right of every occupier in the parish to an interest in the common pasture.

The directions for the ordering of Waltham Forest issued in the time of James I. contain a provision that the officers were to take into consideration who had been commoners of ancient time, and to proceed towards them with more favour.

When the Forest system was in an advanced stage of decay, another order, probably made necessary by the continued abuse of common rights, negatived the claims of persons who only rented houses, and ordered the Reeves not to mark for them.

¹ The late Mr. Joshua Williams, in discussing the subject of stinted commons, states that the number of cattle which the tenants might put on was limited according to the rental of each tenement; and, mentioning the scale fixed by the above order, says that the stint was proved in *The Epping Forest Case* (L. R. 19 Eq. 134, 161). This is quite a mistake. The question of the existence of a stint was not proved or in issue in the cause. The above order made by the Forest Court was in evidence, and was referred to by Sir George Jessel, not for the purpose of showing that it created a stint, but for disproving the theory of common of vicinage, with which it was inconsistent. The Court of Attachments had, in fact, no power to create a stint. The directions for ordering Waltham Forest provide that all commoners in the Forest are to be so proportioned in their commoning, as the King's game be not prevented of sufficient and plentiful feeding; which shows that in the time of James I. no fixed proportion, other than that of levancy and couchancy implied by the law, was in force.

Sup. p. 254.

Camb. MS.

Attachment
Roll, 11 June,
1848.

Lectures on
Rights of
Common,
1880, p. 157.

Camb. MS.

These marking arrangements had an important bearing upon the question which was decided in the great litigation carried on by the City of London, as to the right of common in the Forest; the effect of the decision being, that every commoner had a right to pasture his cattle upon any part of the great Forest waste, and not merely to turn them out upon that part of it which lay within his own manor or parish, with a right of stray over the rest arising from the absence of fences. The latter suggestion derived some weight from the fact that the Commissioner who had charge of the disafforestation of Hainault Forest, found that the rights of common over the wastes of Navestock and Woodford were limited to the wastes of those parishes; and that though there was a general right over the wastes of Barking, Dagenham, Stapleford Abbots, Lambourn, and Chigwell, (which lay together) for the cattle of each of them, he did not find any intercommoning with Epping. This in fact hardly existed, by reason of the interruption caused by the river Roding. But the duties of the Commissioner were confined to Hainault. If he had been able to examine the arrangements on the Epping side of the river, he would have found, as I have already shown, that Epping and Hainault were one Forest, governed by the same laws, administered by the same Courts; that the commoning was superintended by Reeves appointed in the same manner and discharging similar duties; and that the letters which formed the cattle marks of the parishes of the two divisions, ran in a single alphabetical series.

Rep. 9 C. B.
N. S. 648.

THE RIGHT OF PANNAGE.

Furley's Hist.
of Weald of
Kent, 1—76.

See Cod. Dipl.
No. 152.
Cart. Sax.
No. 253.

The Anglo-Saxons were great keepers of swine; and under the names of "Waldbæra," "Denbera," and "Fearnlesuue," very extensive rights of feeding them in the forests upon acorns and beech mast, were attached to particular lands, either by ancient custom, or by direct grants from the Kings; and were sometimes enjoyed in common woods, and sometimes in severalty. It has been suggested that "Waldbæra" was a general right of feeding swine, and "Denbera" the right to feed in a defined district; but all the charters do not support this distinction.¹

At the time of the Domesday survey, swine were still kept in the Forest of Essex, but in much fewer numbers than the woods were able to sustain. In the nineteen vills for which Forest reeves have been appointed since the 15th century, there were, at the date of the survey, but 774 swine, although there was wood enough for 12,662.

Under what regulations these swine were kept there, is unknown; but it is certain that, at a later period under the Forest laws, swine were allowed to be in the Forest

Cod. Dipl. 152.
Cart. Sax. 253.

¹ "Ad hanc quoque terram pertinent in diversis locis porcorum pastus, id est 'ueald bæra.'"

Cod. Dipl. 281,
288.
Cart. Sax. 496,
507.

"Pascua porcorum, quot nostra lingua Saxhonica 'denbera' nominamus."

"Adjectis iiij denberis in commune saltu."

Cod. Dipl. 179.
Cart. Sax. 303.

See also Cod. Dipl. and Cart. Sax. in many places.

only during the season called the time of pannage, and for the purpose of feeding upon the acorns and beech mast which had then fallen; and they were not marked by the Reeves.

They were not in any other way commonable in a Royal Forest, and the directions already cited for regulating Waltham Forest expressly state that they were not commonable there by the Forest law. The rule, however, was relaxed in modern times, as is shown by a notice from the Court of Attachments, dated 19th June, 1809, which sets forth that the turning hogs or pigs on the Forest is unlawful, swine not being commonable cattle; but it being of great benefit to the occupiers of houses and cottages in and near the Forest, to keep swine and suffer them to go "at Ley"¹ in the Forest, the liberty had been connived at, so long as the swine had been rung, and prevented from doing damage to the vert of the Forest; the keepers and officers of the Forest were therefore ordered to impound all hogs and pigs unrung which should be found on the Forest.

According to the Scotch Forest law, it was the custom to forbid in parish churches the entrance of swine into the Forests; and if found there by the forester he might on each of three occasions take one of them for himself; the fourth time they were all to be taken for the King's use.

But if there was a great abundance of acorns in the King's Forest, the forester was to summon the burgesses and "*landthwart men*" to bring their swine so that the

Skene's
Regiam
Majestatem,
Forest Laws,
cap. vi. vii.
Houard Cout.
Angl.-Norm.
Leg. For. 2.
567.

"*Ruremanentes*," Houard.

¹ *I.e.*, at liberty.

King might have his pannage for them; that is to say, for each ten swine, the King to have the best, and the forester one hog; with specified remunerations where the numbers were smaller.¹

These regulations seem to imply that pannage was originally the privilege of the King to derive a benefit, either in kind or by the payment of money, from the consumption of the acorns in his Forests, by his subjects' swine; and that the right of feeding the swine, also called pannage, was the secondary sense of the word. In that sense the word only implies a right for the swine to eat such acorns and beech mast as fall upon the ground, and not by shaking or otherwise to take them off the trees; much less to prevent the owner of the trees in the ordinary course from lopping or cutting them down for timber.

Spelm. Gloss.
Pannagium.
Per Sir G.
Jessel, M. R.,
Law Rep. 7
Ch. D. 562.

Assis. For.
H. 2, § 7.

Under the English Forest laws of Henry II., four knights were appointed to see to the agistment, and to receive the King's pannage, and for the keeping of the woods. No man might agist his own woods in the Forest before those of the King were agisted, the time for which was from fifteen days before, till fifteen days after Michaelmas.

Wilk. 372,
Ch. For. § 9.

The laws of John and the Charter of the Forest provided that every freeholder might agist his woods at his pleasure and have his pannage; and might freely

¹ A parallel provision, in a grant early in the 8th century by Æthelweard Subregulus of the Hwiccas, contains another illustration of the value which the Kings placed upon their rights of pannage. Whenever a larger crop than usual of mast was produced in a part of the land granted, the King, by way of exception from the grant, was to retain his right of feed for one herd of swine.

Cod. Dipl. 56.
Cart. Sax. 116.

drive his swine through the King's woods, for the purpose of agisting them in his own woods or elsewhere, with liberty to tarry on the way in the Forest for a night.

The Epping Forest Commissioners found that the owners and occupiers of lands and tenements within the regard of the Forest, not being waste of the Forest or inclosures from waste, had a right of common of pannage for commonable swine within the Forest, viz., swine levant and couchant on their lands and tenements aforesaid as appurtenant thereto, over all the wastes of the Forest during the time of pannage according to the assize and customs of the Forest.

Final Rep.
P. 4 (1877).

The records contain scant evidence of the existence of this right.

The Hundred rolls show that in the 12th century pannage money was received by Richard and John of Dover, and the Canons and brothers of the Monastery of Hornchurch from their tenants in Havering; and the Abbot of Stratford Langthorne, founded in 1135, had tithes of pannage by the gift of the founder.

Essex, I. 152,
3 Ed. I.

Lyson's Env.
of London,
4. 245.

The proclamation of James I. by which he stopped the taking of pannage, as the principal means of saving the deer after the severe winter of 1614, also shows that swine were then fed in the Forest; but as there is no recorded instance of the stoppage of the Forest right of pasture for cattle, and the proclamation itself did not suggest any interference with it, the pannage mentioned was probably only that which was in the demesne woods then belonging to the Crown in Hainault and Loughton.

Among the numerous claims which were made in 1630 only three in the Epping division of the Forest include pannage; and of these but two, viz., those for the manor of Leyton, and for an estate in the same parish, claim pannage in the Forest wastes generally; the Epping claim being confined to the woods of the manor.

The claims of 1653 (which are of less value) include claims for pannage by the lords of the manors of Epping, Ruckholt, and Walthamstow Toney, the customary tenants of Woodford and Loughton, and the freeholders of the parish of Barking, over the wastes. And in 1670 the lords of Epping, of Wanstead and Stonhall, of Wolfhamston in Chigwell, and of St. John's and D'Ewes Hall, Lambourne Hall, and Cranebrook, in Hainault, all claimed in the Forest wastes; the last named extending his claim to the King's demesne woods: while the lords of Shyngylhall, and Chambers and Sills in Epping, and of Waltham Holy Cross, confined their claims to their own woods. The tenants, men, and inhabitants of Walthamstow, Sewardstone, Stapleford Abbots, and Waltham Holy Cross, and some of the men of Loughton, also limited their claims to the woods of their own manors or parishes; but the claim of other men of Loughton seems to be more extensive.

The difference in the form of these claims raises much doubt as to the continuous exercise of any general Forest rights; and the entries relating to swine in the records of the Court are very few, and only show that their presence in the Forest was not unlawful, so long as the owners observed the rules laid down in the charge

of the Chief Justice of the Forest, that persons not sworn to the assise of the Forest should not come there to look after swine in the fence month, when they ought not to be in the Forest;¹ and that hogs should be ringed; a conclusion which agrees with the notice of 1809 already mentioned. For offending against the first of these rules in 1323 William de Coleworth of Epping, and Robert Baldwick of Theydon Boys each forfeited, or had to pay the value of his swine found in the covert of the Forest in the forbidden month. And at the Swainmote in 1634 William Nowne of Chingford was fined 20s. for damage, assessed at 5s., done by his swine unringed depasturing in the wastes of the Forest, "and upturning the said wastes to the great banishment and nuisance of the wild animals of the lord the King there, and the damage of the pasture of the Forest."

Supra, p. 307.

Exch. Treas.
of Rect. Pl.
of For.
17 Ed. 2.

Ch. For. Proc.
Waltham,
No. 140
10 Car. 1.

Orders made at the Manor Courts of Ruckholt in 1611 and 1614 also imposed fines upon those who should keep any "hogge, bore, sowe, or pigge" on the commons, lord's waste, or highways in the manor unringed for the space of one week; and notices were given to the Forest keepers to impound the swine which were in the Forest unringed.

¹ "Neque porci sint in Foresta Regis tempore de Foinesun."

Leg. For.
R. 1.
Wilkins,
351-2.

CHAPTER VII.

Inclosures in the Forest.

" They gave up their whole leisure time to carving bits out of the
 " Forest, and adding them to their own gardens; sticking up palings
 " round these bits; here a cantle and there a snippet; here a slab and
 " there a slice; a round corner and a square corner; a bare piece of turf
 " or a wooded clump; and all so neighbourly, encouraging each other the
 " while with a 'Brother, will this be to your mind?' or 'Help yourself,
 " 'neighbour;' and 'Let me recommend, sir, another slice;' or 'A piece
 " 'of the woody part, dear friend.'"¹



THE destruction of the woods and coverts in a Royal Forest for the purpose of converting the land to tillage, and the erection of fences and buildings—the first being known as an assart,² and the latter as a purpresture—were forbidden from very ancient times, whether the soil belonged to the King or to a private owner. He who committed any of the numerous offences

¹ Walter Besant.

Dial. of Exchr.
 bk. I, ch. xiii.

² Assarts are commonly said to be what by Isidore are called occations, when, for instance, the groves or underwood of a forest which are convenient for pastures and coverts are cut down; upon the cutting down and grubbing up the roots of which, the ground is turned up and cultivated.

against the vert of the Forest which are specified in the laws of Richard I., and which included the assarting of the wastes, was in the mercy of the King as to his personalty, unless he had the warrant of the Verderers or of the King's Foresters. A curious exception to this rule was made in favour of the Barons of the Exchequer; and we are told that Robert Earl of Leicester, having obtained a writ from the King to be quit from assarts, in order to save himself without trouble from the exactions of the Forest officers, repudiated the writ and stood upon his rights, upon being reminded by Nigel Bishop of Ely, that his act would cause an inference that the writ of the King was necessary for the quittance.

§ (xiv.)
Hoveden
Chron. 4. 65
(M. R. S.).

Dial. of Exchr.
bk. I, ch. xi.

The charge of the Chief Justice of the Forest, by which the jurors were directed to inquire whether any persons had inclosed ground bordering upon the Forest, and so had encroached upon the Forest; or set their hedges and ditches further than they ought, and so straitened the Forest; and whether any man had newly inclosed his several grounds or wood within the Forest to the prejudice of the deer; or had subtracted or appropriated anything in the Forest that belonged to the King, shows that the practice of inclosing small slices of land, so graphically described by Mr. Besant as carried on in Hainault Forest, was no modern invention, however it may have been kept under control by the strict execution of the Forest laws.

Harl. MS.
6839, f. 261.
§§ 63, 64, 65,
86, 87.

As a general rule, inclosures in Royal Forests, although made by licence, were subject to the condition that they should still be accessible to the deer; to which

Charge to
Jury, Wal-
tham F. 1634,
§ 34, Harl.
MSS. 6389,
fo. 261.

Attachment
Roll, 28 Aug.
1721.

Pl. For.
5 Ed. 1.

end they were only to be inclosed with such a small ditch and low hedge, that a doe with her fawn might easily go in and out over the fence. Such a fence ought not, according to the assize of the Forest, to be more than four and a half feet high; and for transgressing this rule upon the inclosure of his wood at Fishyde, Roger de Bello Campo (probably Roding Beauchamp) was fined 20s. in 1277, and the hedge was ordered to be destroyed.

Close Roll,
15 John.
(R. C. p. 148.)

The condition, however, does not appear to have been always mentioned; as a direction by King John to have an inclosure made in the Forest of Essex for the cattle of the Bishop of London, does not allude to it.

Charge to
Jury, Wal-
tham F. 1634,
§§ 35, 36.
Harl. MSS.
6839, fo. 261.

Sometimes leave was given to the owner of Forest land to make it into a park; and then he was not only allowed, but was bound, if he would avoid the seizure of his park by the King, to keep it well fenced against the King's deer; inleaps or deer leaps, sometimes also called salteries, being strictly forbidden.

Ch. For. Proc.
6 Car. 1.
Answers to
Justices'
Inquiries,
No. 153.

It was presented in 1630 that there were four such contrivances in the pales of Wanstead Park, "by w^{ch} meanes his Ma^{ties} deer go out of the said walks into the sayd parke and cannot returne agayne."

1189-90.
Cartæ An-
tiquæ, m.
No. 6.

It is probable that the most ancient of the Forest parks was Harold's Park, which was already existing when Richard I. confirmed it to the Church and Canons of Waltham as an inclosed park, with the right to take all beasts that they might find therein, and to add to it of their woods 30 acres towards the west and towards the north.

The Abbot and Convent were licensed by Henry III. in 1257 to add 60 acres to the park from their demesne lands. And again, in the 14th century, when they desired to add 120 acres of their demesnes to Harold's Park and to Copped Hall Park (which had been given by Richard I. to Richard Fitzauher to hold in fee of the Abbey, but was now in their possession), an inquisition was held in 1374 before John le Foxle, the Chief Justice, and the Forest officers, who certified that if a certain highway and footpath leading from Waltham to Epping were not inclosed, the proposed inclosure of the 120 acres, the true value of which by the year they said was 2*d.* per acre, would be only a little to the injury of the Forest. Probably this inclosure was not made; for in 1379-80 Baldwin de Bereford, the deputy of De Holand, then Chief Justice, held another inquisition, upon which it was certified that 162 acres of the demesnes of the Convent might be inclosed for the enlargement of the parks, as well as a lane adjoining Copped Hall Park, which was dangerous and hurtful to those passing, because it was a receptacle for the robbers of the country,¹ and had

Harl. MSS.
No. 391, Reg.
Cart. Abb. de
Waltham,
p. 56d.

Fuller, Hist.
Waltham
Abbey, p. 8.
48 Ed. 3.
Treas. of Rect.
Misc. Court
Rolls, B. 153,
Roll 44.

Chancery
Inqns. post
mort. 4 Rd. 2.

Chy. Pat. Roll.
4 Rd. 2.

¹ The forests were always convenient lurking-places for robbers. Macaulay tells us how in the time of William III. (1698) a fraternity of plunderers, thirty in number according to the lowest estimate, squatted near Waltham Cross under the shades of Epping Forest, and built themselves huts, from which they sallied forth with sword and pistol to bid passengers stand. A warrant of the Lord Chief Justice broke up the Maroon village for a short time; but the dispersed thieves soon mustered again, and had the impudence to bid defiance to the Government in a cartel, signed, it was said, with their real names. The civil power was unable to deal with this frightful evil. It was necessary that during some time cavalry should patrol every evening on the roads near the boundary between Middlesex and Essex. In

Hist. of Eng-
land, vol. 5,
p. 113.

Duch. of
Lanc. Misc.
Rec. Plac.
For. 4 H. 7.
Exch. Treas.
of Rect.
Essex, Misc.
Bag No. 22.
25 H. 8, c. 26.

been in all times past an advantageous and secret place for trespassers upon the King's wild animals; and that there was a secret and private situation in the lane for the destruction of the lord the King's wild animals with bows, cords, snares, and engines. Leave was accordingly given to the Abbot and Convent to make this inclosure. Copped Hall Park was claimed by the Convent in 1489, and it remained their property until 1533, when, by an agreement confirmed by statute, the Monastery gave it up to Henry VIII. in exchange for other lands.¹ It was afterwards granted by Edward VI. in 1547 to John Earl of Warwick, who in the same year conveyed it to Sir Anthony Denny.

For. Proc.
Chy. Waltham,
6 Car. 1.

Exch. Treas.
of Rect. Plac.
For. Essex,
1670, cl. 88.

In 1630 this park, with Waltham Park and Nazing Wood Park, belonged to the Earl of Norwich, who claimed them as free parks inclosed with pales; as did the Earl of Manchester in right of his wife, the Countess of Carlisle, in 1670.

In Speed's map, dated 1662, Harold's Park, Copped Hall Park, and a park on the north of the town of Waltham Abbey, which may have been Waltham Park, are all marked as inclosures; as are the two latter, but not Harold's Park, in Norden's map of 1594. But in 1766 Harold's Park is not marked as an inclosure. In Chapman and André's large map of 1776, the district

Celebrated
Trials, vol. 4
(1825).

the next century Dick Turpin (who was executed in 1739) and his associate, King, took up their quarters in the Forest in a cave between Loughton Road and King's Oak Road, large enough to receive them and their horses, and from which they could see what passengers went by either road, and could issue forth and rob them.

¹ It was the residence of the Princess Mary in 1551. See 1 St. Trials, 549.

bearing the name of this park is only occupied by several detached woods; and the inclosed park on the north of Watham has disappeared.

As to Nazing Wood Park, the right to inclose and make parks of their woods of Nasing and Epping was granted by Henry III. in 1225 to the Abbot and Convent of Waltham during the King's minority, in consideration of the woods of the Monastery at Debden, Loughton, Alewarton, and Woodford, which had been disafforested by the perambulation, being allowed to remain forest; with a stipulation, that if the King revoked the grant on coming of age, the inclosure of the park should be thrown down, and the disafforested woods should again be put out of the Forest. A corresponding grant of the woods was at the same time made by the Monastery to the King.

Pat. Roll,
10 H. 3, m. 9.
Close Roll,
same year,
m. 29.

In 13 Hen. III. the right to inclose the woods of Nasing and Epping with a little ditch and a low hedge, so that wild beasts might go in and out, was confirmed; and in 1324 Edward II., on account of reverence for the Holy Cross and for the benefit of the said Church, wishing to do a special grace to the said Abbot and Convent, licensed them to cause the wood to be inclosed with a deep trench and a lofty hedge, so that the King's wild animals should not be able to enter or go out of the wood, and to hold it without burden or impediment of the King, his heirs, justices, foresters, verderers, or other ministers of his Forest. Application had been made for this grant in 1285.

Pl. For.
5 Ed. 1 (1277).

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2,
m. 9.

Inqn. post
mort. 13 Ed. 1,
1285.

The charter was produced, and the claim founded upon it was allowed at the Justice Seat held in 1489.

Duch. of Lanc.
Misc. Rec.
Plac. For.
4 H. 7.

Ch. For. Proc.
No. 153,
Justices'
Inquiries,
memb. 17.

At the Justice Seat in 1630, it was presented that the Reeve of Nasing and three of his fourmen having been required by the under keeper of Epping Walk to assist him in driving the Forest, "went along with the said keeper until they came to Naseing Wood, and then refused to goe any further with him, or to helpe to drive the wood (there being sheepe and cattell in it); pretending the same to be no pte of y^e Forrest." A note in the margin stated that it was adjudged to be within the Forest, but no further action appears to have been taken.

Ch. For. Proc.
Waltham,
No. 140.
10 Car. I.

At the Swainmote held in 1634 a similar occurrence is recorded. The Reeve was fined 20s., but as the fine was discharged by the order of the Court, it may be inferred that he was found to be justified in his refusal.

There was also a park in Leyton, anciently called Corbicum or Corpechum, but in the 15th century Wally Wode, and later, Wallwood.

26 Feb.
32 H. 3
(1247-8).

As in the case of Nazing Wood Park, the first licence which was granted by Henry III. merely empowered the owners of Corbicum, the Abbot and Convent of Stratford, to inclose it so that the King's wild beasts might still pass in and out; but by another charter in 1253, they were not only allowed to make it into an inclosed park, and to assart and till it, but it was declared to be disafforested.

14 May.
37 H. 3.

Pl. For.
5 Ed. 1.
Exch. Treas.
of Rect. Pl.
For. 23 Ed. 1,
m. 40.
17 Ed. 2.

This charter was enrolled in 1277, and confirmations of it made in 1284, and 1319, were enrolled in 1292 and 1323-4; and claims founded upon it were allowed in 1489 and on subsequent occasions.

Duch. of Lanc.
Misc. Rec.
Pl. For.
4 Hen. 7.

After several changes of ownership it became vested

in the Crown, as appears by a suit in the Exchequer in 1596 against Ralph Colston, the woodward, for taking more than his allowance of fee wood; and by another suit during the Commonwealth against Skynner Ryder, then lord of the manor of Leyton, for quieting the Protector in the possession of this wood; and a decree was made accordingly in Trinity Term, 1655. The park was probably a small one, as it is not shown on the maps.

Bills and
Answers,
Exch. Q. Rem.
37 Eliz. Essex,
No. 154.
Entry Book,
Exch. Dec. &
Ord. 36—38
Eliz. vol. 22,
fo. 189^b.
Exch. Dec. &
Orders,
Common-
wealth, vol.
36, 246d.

In 1277, Sir Alexander de Goldyngham was licensed by Edward I. to inclose his garden and fifty acres of land in the Forest contiguous to his manor of Chigwell, and to make a park of it, but I have found no other entries relating to this inclosure.

Exch. Aug-
mentations,
Cart. Ant.
D. 69.
5 Ed. 1.

Wanstead Park appears by a grant made by Henry VIII. in 1545 (from which it is excepted) to have been then lately imparked and inclosed. It was afterwards granted with the manor of Wanstead, to Lord Chancellor Ryche by Edward VI. The claims of Sir Henry Mildmay in 1630, and of Robert Bloyse in 1670, show that the park then contained about 300 acres.

36 Hen. 8.
5 Ed. 6.
For. Proc.
Ch. Waltham
F. 6 Car. 1,
B. 129, m. 61.
Exch. Treas.
of Rect. Plac.
For. No. 6
(Claim 4).

Wintry Wood was sometimes called a park, but I have found nothing to show that it was so in the strict sense. The head of the wood called "Old Wyntre" was one of the Forest boundaries in the perambulation made in 1301; the name must therefore be of great antiquity.

In the manor of Wolverston in Hainault, the Earl of Arundel, lord of that manor, and Alice his wife, had licence to impark fifty acres in their own manor in the

Pat. R.
17 Ed. 2,
94^b (R. C.).

time of Edward II. There were also several parks in the outlying districts which had been illegally afforested, besides those of Havering and Wrotele, which were Royal demesne; and Pirgo, which adjoined Havering.

Pl. For.
5 Ed. 1.

Adam de Kaylli had one at Little Waltham, in the hundred of Chelmsford, which had been seized into the King's hands in 1277, because it was so badly inclosed that the King's wild beasts could pass in and out. In

Exch. Treas.
of Rect. Pl.
For. 17 Ed. 2,
m. 52.

1323-4, the Dean and Chapter of St. Paul's showed at the Justice Seat a warrant to inclose the wood called Le Frith, at Leyndon, in the hundred of Barstaple,¹ and to make a park of it. And in 1368-9, John Wade, Canon of St. Paul's, had letters patent to enable him to inclose the park of High Ongar during the King's pleasure.

Exch. Treas.
of Rect. Misc.
For. Rolls,
B. 155,
Roll 26.

A claim to hold this park exempt from the Forest was made in 1630, in which year the Ranger complained at the Justice Seat that Sir Richard Munchstow pulled down the rails and let the deer into the park, and would not suffer the Ranger to hunt it as Purley; but "sayes he will shoutte my dodges, and sue me in the Star Chamber."

Justice Seat,
21 Sept. 1630,
memb. 19.

Bk. 3, ch. 3.
Abr.

Parks at last became very numerous. Polydore Vergil complained that "now thei be euery where vsed; but most commonly in Englande to the greate damage of good pastures that might fede other cattel."

H. 2, § 10,
Ben. Pet. 2,
clxiii. (M. R.
S.)
R. 1, §§ (xi.),
(xvi.).
Hoved.Chron
4. 65 (M. R.
S.).

Inclosures of large tracts of the Forest wastes for the purpose of cultivation, also began at a very early period, and were not only the subject of special regulations under the Forest laws of Henry II. and Richard I.;

¹ Barstaple had been put out of the Forest by the perambulation of 29 Edw. 1.

but if Thorpe be right in considering the article "*De placito Forestarum*," and other articles included in the laws ascribed to Henry I., as a compilation of ancient Saxon laws, they must have been dealt with by Forest laws before the Conquest.

In a grant by Richard I. to the Abbey of Waltham Holy Cross in 1189-90, he acquitted the monastery of many hundred acres of assarts; at Waltham, 300 acres; at Nasing, 160 acres; at Epping, 60 acres; at Suwardeston, 140 acres; at Wudeford, 32 acres; at Alewarton (Alderton in Loughton), 80 acres, and of waste made in the same vill before the arrival of the Canons; at Luke-ton (Loughton), 40 acres; at Tipedene (Debden in Loughton), 39 acres; at Walde, 40 acres; at Upminster, 104 acres; at Passefeld (Passelow), 60 acres; and at Nettleswell, 40 acres;¹ and the acquittance was confirmed by Edward I., so that the monastery should assart no more out of the King's woods² without the consent of him or his heirs. It is shown by later entries that these lands were not afterwards treated as assarts.

When application was made for leave to assart or inclose, the course was to direct an inquiry by the Foresters, Verderers, and Regarders, and twenty-four Jurors, before the Justice of the Forests, whether the proposed inclosure would be to the injury of the Forest;

Ancient Laws
and Institutes
of England,
I. 611.

Inspex.
5 Ed. I,
Charter Roll,
Essex, m. 17a.

See Inquiry as
to Nazing,
Ch. Inquis.
post mortem,
13 Ed. I, 1285;
Licences to
St. Paul's,
Ch. Pat. Roll,
11 H. 3, p. 1,
n. 7, and to

¹ If these quantities were measured by the Forest perch, which was twenty-four feet, they would be nearly a third greater than the present standard measure. The lesser perch was, however, sometimes used in the Forest.

² The King's wood in the sense in which the Forest was the King's. The soil was in the Abbot and Convent.

Ch. Pat. Roll,
11 H. 3, p. 1,
m. 7.
Ch. Inq. p. m.
13 Ed. I.
Pl. For.
20 Ed. I,
1292.

Peter de Tany, that is, whether it would disturb or interfere with the
 Ch. Inq. haunts of the deer; and if the report was favourable a
 45 H. 3, No. 33; Ch. licence was granted, subject to the condition already
 Pat. Roll, mentioned as to the manner of inclosing.
 46 H. 3, p. 1,
 n. 20.

When the land was assarted without licence it might be seized and held by the King until it was redeemed by payment of a fine; and a yearly rent was exacted for liberty to keep it inclosed and cultivated.

Ben. Pet. 2,
 clix.
 Hov. 2. 243,
 M. R. S.
 Wilkins,
 351-2.

The Forest laws of Henry II. and Richard I. provided minutely for the inspection of assarts both old and new; of purprestures and wastes of woods, whether of the King's demesnes or otherwise; the fenced grounds of the King, the mines, the eyries of hawks, and the forges in the forests, were ordered to be inspected, and were all to be separately registered; and the new assarts, and such of the old assarts as had been sown with grain since the last Regard, and the corn or pulse with which they were sown, were to be noted.

Ibid.

Bk. I, ch. xi.

The new assarts were to be taken into the King's hands; each acre of the old was to pay to the King, from its produce, 13*d.*, if sown with winter or summer corn;¹ and 6*d.* if sown with oats, barley, beans, peas, or other pulse. But according to the Dialogues of the Exchequer the payments were 1*s.* per acre for assarts sown with wheat, and 6*d.* per acre for oats; and this agrees with the payments demanded for the assarts in the Forest of Essex in 1277.

¹ "Frumento vel siligine." The authorities are not very clear as to the exact meaning of the words; but I think it is as stated. There appear to have been crops of winter and summer corn in succession, with an occasional crop of oats.

The jurors were accordingly charged at the Justice Seat to inquire into all new assarts; who made and held them, their contents, and yearly value, what wood or pasture had been tilled, and the value of the corn.

See Charge at the Justice Seat of 1634, §§ 47, 48. Harl. MSS. 6839, fo. 261.

At the Justice Seats held in 1277 and 1292, for Waltham Forest, the payments for old and new assarts were duly fixed in obedience to these regulations; and if the entries represent correctly the quantities of the assarted lands, the laws must then have been fairly effective in preventing inclosures.

Plac. For. 5 Ed. 1; 20 Ed. 1.

In 1277 the arrentations comprised about 10 acres of assarts in Theydon Bois; about 20 acres of old and new assarts and purprestures in Chigwell; 10 acres in Epping; between 3 and 4 acres in Roothing Aythorp; in Chingford about 24 acres belonging to St. Paul's, and of which it was quit by charter; and over 4 acres in Theydon Gernon. All these, except the Chingford assarts, and such as were *frise* (*i. e.* fresh or fallow), for which the law exacted no payment, were entered as having been so many times under winter corn, and so many times under summer corn, and were rated accordingly, by the scale mentioned in the Dialogues of the Exchequer.

Plac. For. 5 Ed. 1.

During the relaxation of the Forest laws after the death of Henry VIII., the practice of inclosing lands without licence appears to have increased; and to have been allowed, provided that a certain part of the land was sown with corn, to which the deer could have access.

Patents, 2 Ed. 6, pt. 3.

The proclamation of Edward VI. in 1548, states that "div's greedye psones having in their hands sundry closes and pastures within our said Forest where manye of our seid Deare have accustomedly used to feede under the colo^r and p'tence of sowing of some little p'cell thereof withe corne, have for their pryvate gayne and proffett so enclosed the seid closes and pastures withe such unreasonable hedges and dyches, as our seid Deare have been utterlye defraudyed and hyndryed of their feeding and lybtye, contrarye to our Lawes, and to the great famyshing and distrucyon of our said Deare"; it was therefore forbidden to inclose with any such unreasonable hedge or ditch any of the said closes or pastures, unless the more parts thereof were sown with corn.

Two instances are recorded in which Queen Elizabeth discharged obligations to her servants by making grants of land in her manor of Barking in the Forest. One of these, a grant of nine acres, was made in 1583, to Andrew Tuggell "Armorer, for the perilous service of the said Andrew heretofore to the said lady the Queen and her predecessors done in war, he now being old and decrepit." And in 1602 William Hunt, one of the Queen's Trumpeters, and Susan his wife, were licensed to inclose and build a house upon five acres of the waste in the same manor. The reason for this grant was, that one Egham, the former husband of Susan, had discharged the duty of keeper of Walthamstow walk for two years without pay, and had died before a patent had been

Ch. For. Proc.
6 Car. I,
m. 18.

Ch. For. Proc.
6 Car. I,
m. 16.

granted to him for the place; so that Her Majesty remained in his debt for his service 24*l.* unpaid; "to the greate losse and hinderance of the said William Egham, his poore wife and many children."

At the Swainmote of 1594, among many presentments for offences against venison, there were only a few relating to purprestures committed by felling groves, and making unlawful inclosures and hedges. But it seems that many inclosures must have been allowed by the Forest officers to pass without notice, or that the Crown had always kept account of the old assarts; for James I. soon after coming to the throne empowered commissioners to sell the assarts, wastes, and purprestures in some of the Forests, and to grant discharges of the mesne profits; doubting not, as he said in a later proclamation, that his loving subjects "whom it did concerne, and who have bene long in possession of the sayd landes at very low rates, would have taken care in time to have provided for their own profit, safetie, and peace therein." But as few of them came in, and strangers offered to compound with the King, he declared that if the possessors of the lands did not come in and compound before the 1st October, 1605, the lands would be disposed of to others.

Fifteen years later James renewed with better success his attack upon the holders of the assarted lands by issuing a commission to Sir Nicholas Coote and others; authorizing them to perambulate and map out all his forests, parks, and chaces in Essex, and their ancient metes and

For. of Wal-
tham, 36 Eliz.
(Bodl.).

St. Pap. Dom.
Procln. 12
May, 1605.
Proc. bk.
p. 104.

Exch. Spl.
Comms. Essex,
17 Jas. I,
No. 3822.

boundaries, and to survey all buildings, grounds, and lands enclosed, incroached, or erected out of or upon his wastes or commons; and to inquire concerning all assart lands, wastes, and purprestures in the soil of the King or his subjects; who were the tenants; what estate they had; of whom they held; by what rents; to whom paid; how many acres; the state of cultivation, and the reasonable value for letting.

St. Pap. Dom.
Jas. I, vol. 203,
No. 20 (11
May, 1620).

The commissioners reported that there were in Chingford, Wanstead, and West Ham sixty acres of assarts, and in the same parishes and in Walthamstow and Epping other lands assarted and inclosed within the last forty years, and held by different landowners; but which, because of the ambiguity, uncertainty, and decay of the metes and bounds, could not be distinguished.

13 Feb. 1620-
21, pen. Lord
of pt. of
Chingford
Earls.

In the following year the King, on payment of 349*l.*, granted these assarts to Thomas Boothby, Robert Symond, Edward Atkins, Richard Searle, and Edward Searle, five of the land owners (probably as trustees for the whole body of them), at small rents, subject to the Forest laws and to tithes.

Ch. For. Proc.
Waltham,
6 Car. I,
No. 144.

The certificate of the regarkers of the Forest at the Regard held in 1630 shows that during the end of the 16th and the early part of the 17th centuries, an extraordinary number of houses and cottages were built in the Forest; some upon unauthorized inclosures from the wastes, and some on the old inclosed lands; small gardens, pigsties, or other inclosures being attached

to many of them. The numbers presented were as follows:—

	On Waste.	On Old Inclosures.
Walthamstow	7	5
Woodford	13	2
Wanstead.....	5	4
Westham.....	1	2
Leyton.....	8	5
Barking	25	10
Dagenham		7
Chingford	6	3
Waltham	14	12
and		21 ?
Nazing.....		2 ?
Epping.....	4	3
Lambourn	1	5
Chigwell	11	5
Theydonboys	3	
	98	86
Loughton, position doubtful 24		98
		24
	Total....	208

The presentments also included, in most of the parishes, separate inclosures of small pieces of land, seldom exceeding half an acre in extent; and in several of them inclosures both of waste and inclosed land; brick kilns, and brick and gravel pits; forges, walls and pales; woods felled, stubbed, and left unfenced; conygrees or rabbit warrens; groves, coverts, and fences spoiled by tressling; and forest ways uncleared and choked up.

Many presentments of the same kind were made in 1634; and in 1640, on the petition of John Wroth, the lord of the manor of Loughton, and of the rector of the

St. Pap. Dom.
ch. 1, vol. 384.

parish and others, the Earl of Holland, Chief Justice of the Forests, desired "Sir William Hix" [Hicks], the Lieutenant of the Forest, to forbid the proceedings of three persons, who, as the petitioners complained, were seated in several habitations, yet were building themselves dwellings on the common of the Forest, contrary to the laws of the Forest and kingdom; and to the impoverishing of the parish, the destruction of the common of woods, and the evil example and encouragement of others, "there being at this tyme many houses empty and to be hyred."

Exch. Treas.
of Rect. Plac.
For. County
Bags, Essex,
No. 8,
22 Car. 2.

At the Justice Seat in 1670, there were also many presentments of inclosures and buildings. The smaller inclosures were for the most part arrented, but some were ordered to be pulled down. One man, who had enlarged his house, had the choice of paying a fine of 20*l.*, or of pulling down his building, and paying a fine of 5*l.* for the trespass. He chose the first alternative. In the case of a large inclosure of 150 acres, the fact of the offence was ordered to be tried. Another inclosure of 80 acres, part of Knighton Wood in Woodford, had been thrown down by the inhabitants. The offender submitted to a fine of 6*l.* 13*s.* 4*d.*, and the inclosure was again ordered to be destroyed. But it seems doubtful whether this was done.

Exch. Treas.
of Rect. Pl.
For. Essex,
No. 8.

St. Pap. Dom.
Car. 2, 1670-1,
fo. 229, 231,
233, 234.
Id. 2 Dec.
1670, Bundle
300, fo. 300.

There are drafts of licences by the Chief Justice to John Hayes, the owner of the wood, to fell and inclose it; and of a respite of the order of "prostration"; and of a petition by Hayes, praying that the "prostration" of his fences might be respited, on the ground that he was a very honest and loyal person as to the King's interest; that he was at Chelmsford to serve His Majesty when

Sir William Hicks and Mr. Boroughs were there and others, and appeared in arms to receive commands for the King upon the Colchester business; that he was plundered of his plate and horses to the value of 500*l.* and upwards; had always refused to send out a horse against the King; was fined 200*l.* several times, and had been a sufferer by many thousands of pounds for several persons of great quality, that had suffered by the late usurped power.

In 1666, Sir Henry Wroth, lord of the manors of Loughton and Chigwell, applied to the Crown for a licence to inclose no less than 1,500 acres as his share of the 4,000 acres of which it was said that the wastes of these manors then consisted. Sir Edward Turner reported that if the inclosures were made according to the Forest laws, the King's interest in the land would not be impaired; and the Calendar of State Papers contains a warrant dated 16th July, 1666, to the Attorney-General to prepare a licence to inclose the 1,500 acres with small hedges and ditches, and to convert the same into tillage free from the Regard of the Forest. The inclosure was never made, or, so far as appears, even attempted; and there can be no doubt that it would have been prevented by the commoners and other inhabitants, who were already beginning to resist large inclosures.

A few licences to inclose are recorded between the dates of the last Justice Seat (1670) and the commencement of the regular series of extant rolls of the Court of Attachments (1713). One was a licence to make a road and avenue, leading from the Epping highway to Copt

St. Pap. Dom.
Petns. 1663-4
to 1670,
Entry bk.
No. 18.

St. Pap. Dom.
Car. 2, vol. clv.
No. 2.

St. Pap. Dom.
Warrt. bk.
1665-6 to
1667,
Entry bk.
No. 23.

2 Dec. 5 Anne,
Land Rev.
Record

Office,
Auditors'
Enrolments,
Essex, vol. 8,
fo. 6.

Letter book Z,
p. 267, Office
of Com. of W.
F. and Land
Revenues.

Hall Park, on the report of the Surveyor-General that there were no deer or timber there; and that it was desirable to use the land thereabouts for nursing up young trees, and improving the soil.

The records of the Court of Attachments from the year 1713 to 1848, show that during this period an almost continuous series of inclosures of parts of the Forest waste took place. At first they were but few, were usually made by licence of the Chief Justice, and not without attention to the rights of the persons interested. The consent of the lord of the manor, and of the inhabitants of the part in which the land was situate, and who may be supposed to have been consulted as commoners, was required, as well as a report by the Verderers that no harm would be done to the rights of the King. About 80 acres were inclosed in this manner between 1714 and 1724, one piece consisting of 20 and another of 40 acres, and the rest being very small plots. A few licences continued to be granted till the middle of the century, and during this time there was little or no notice of unauthorized encroachments. But in 1751, 1752, and 1753, a great number of presentments were made of inclosures and fences, of the digging and destruction of pits, turf, and bushes, and other nuisances. It is not likely that all these were new occurrences; and I am inclined to attribute the sudden activity of the Forest officers to the appointment of a new verderer, Mr.—afterwards Sir—Crispe Gascoyne. An entry on the rolls soon after this time, shows that the lords of the manor of Barking insisted upon a right to authorize

Attachment
Rolls, 21 Aug.
1755.

inclosures made outside the Forest gates, which kept the cattle from straying into the lanes; a claim which was probably founded upon the neglect of the Forest officers to interfere with such inclosures.

During the third quarter of the 18th century very few licences to inclose were presented; but many presentments were made of unlawful inclosures and other depredations, including one by the parishioners of Romford; who were accused of removing the Forest boundary marks, and thereby of encroaching upon it to the extent of 60 acres; and, not long after, the stopping of seven different roads, "which were Ancient Riding Ways for all his Majesties Leige Subjects to pass and repass on Foot or Horseback," was presented.

Attachment
Roll, 8 June,
1770.

Attachment
Rolls, 29 July,
1771.

Another encroachment proved very costly to the incloser, although he took the precaution of obtaining a lease from the Crown. The land was Knighton Wood, in Woodford, and as it then contained only 42 acres, it may be inferred that part at least of the inclosure which was destroyed by the inhabitants in 1670, when it was said to contain 80 acres, had been replaced. On the present occasion the wood was inclosed and grubbed up; but the fences were pulled down by the direction, it was said, of the steward of Earl Tylney, who probably refused to recognize a permission to inclose, not made by the Forest authorities. The owner of the land, having failed in an action of trespass, was put to costs, which, with the useless outlay on the land, he said amounted to 1,095*l.*; and the Treasury granted him 300*l.* by way of compensation. This wood was afterwards the subject

See Petn. in
Office of
Works.

Treasury
Warrant,
13 May, 1781.

of the action of *The Attorney-General v. Hallett*, which is mentioned later.

The effect of the suspension of the Courts during *Supra*, p. 103. the dispute which ended in 1785, about the right to appoint a Steward, was, as is recorded on the rolls, that the Forest was open to the depredations of all who chose to rob and trespass on it; and many illegal inclosures were doubtless made at this time. When the dispute was settled on the accession of Sir James Tylney Long to the office of Warden, vigorous attempts were made to stay the spoliation. Thirty-one inclosures were presented at the Courts of August and September, 1785; and such was the zeal of the new Warden, that he visited with the Forest officers twenty encroachments in Theydon, Loughton, and Chigwell, began to pull down the fences round some of them, and ordered the rest to be abated. Some of these inclosures were in the purlieu, over which the Forest officers still continued to assert the ill-defined rights of the Crown.¹

In 1796 the verderers refused their assent to the inclosure of the wood called The Sale wood, in Walthamstow. The fences were thrown down and the ways, which had been interrupted, restored. Many small encroachments were again ordered to be thrown down by the under keepers when the offenders refused to obey the orders of the Court; and after further presentments

¹ In 1793 the Commissioners appointed to inquire into the state and condition of the woods, forests, and land revenues of the Crown, presented to Parliament the valuable report, from which I have made many extracts.

another order was made, in 1796, that the under keepers should throw down the fences of twelve persons who resisted, and should continue to do so as soon and as often as they should be put up again. The subjects of these and other orders were "cantles," and "snippets," of land, mostly measured by the rod, sometimes by the yard, and seldom exceeding a quarter of an acre; and it would probably have been difficult for the Forest officers to note them all, even if they did not sometimes overlook them from an unwillingness to interfere with their neighbours, or for other reasons. It does not appear at this time that the right of the Forest Court to prevent inclosures authorized by the lords of the manors, was disputed by them; and an entry on the Court rolls of the manor of Sewardstone, expressly admits that a grant by the lord of five acres, became abortive in consequence of the refusal of the Forest officers to consent to the inclosure. But the Court of Attachments, in the beginning of the 19th century, wearied perhaps by the prolonged contest with the inclosers, who still persevered in their work, became more lax in their opposition, and allowed many of the fences to remain; on the grounds that some of the pieces taken in were small and unimprovable spots of ground; that the inclosure of some improved the roads; and that some were granted for the building of cottages, which might be a protection to the roads and to the Forest; in other cases they were allowed to those who from long residence, or as large owners of property in the Forest and contributors to the expense of protecting its rights, were thought to be entitled to such an indulgence.

Court Rolls,
13 May, 1788.

Draft letter of
the Steward of
the Court to
Secretary in
Eyre, 10 Aug.
1802.

See Rep. of
Com. of 1863.
Parl. Pap.
1863, vol. 6.

In the year 1805, the Commissioners of Woods and Forests, acting upon the recommendation of the Commissioners of Land Revenues in 1793, adopted a course, the repetition of which in later years greatly increased the general confusion. This was the sale of the manor of West Ham with its wastes, (then vested in the Crown) and the forestal rights of the Crown, by way of extinguishment in the soil.¹ The grant of the forestal rights in the manor was confirmed in 1811.

Boulcott v.
Winnill, 2
Camp. 261.

The sale was followed, in 1807, by an action (which in the opinion of Sir George Jessel, M. R., was collusive) by the owner of a piece of the inclosed waste of this manor, against a person who was alleged to have destroyed the fences of, and to have trespassed upon the inclosure; to which a right of common being pleaded, the plaintiff set up a grant of the land by the lord of the manor under an alleged custom, and on the trial obtained a verdict. The plaintiff denied that the land was within the Forest, intending I suppose to rely upon the grant of the Crown rights as a disafforestation. The judge before whom the question whether the custom was compatible with the Crown rights was argued, assumed however that the land was in the Forest, and held that the question depended upon the nature of the inclosure; that if the fences were higher than the Forest law permitted, the Forest officers might still break them down; and that the custom,

¹ A general power to sell Crown lands was given by 42 Geo. 3, c. 116; and by 57 Geo. 3, c. 97, s. 4, and 1 & 2 Geo. 4, c. 52, s. 12, powers were given, first to sell the franchises, and then the rights of forests, free chase, and free warren, to the owners of lands affected by them, so that the rights might be extinguished. The duties of the Commissioners were further regulated by 14 & 15 Vict. c. 42.

which he held to be proved, only affected the rights of common.

The judgment seems to have been given in ignorance of two facts, neither of which was mentioned to the judge; viz. that all unlicensed inclosures, whether with high or low fences, were contrary to the law of the Forest; and that the forest right of common was not a manorial right, and therefore could not be taken away under a custom of the manor.

Acts of Parliament passed in 1812 and 1829, show how the orders of the Courts of Attachment, both in this and other Forests, were set at naught by the land inclosers. They state that although the fences of many of the unlawful inclosures, and also the houses and buildings erected thereon, had been thrown down by the Forest officers, they had been again reinstated by the trespassers or by others. They directed that all unlawful encroachments should be inquired of by the verderers in the Court of Attachments; that the persons who made or continued them should be prosecuted in the same Court, and might be fined by the verderers for every such offence in a sum not exceeding 20*l.*, to be recovered before a Justice of the Peace; and that the encroachments should be abated. The Forest officers were also required before every Court of Attachments to take account of and present at the Court all encroachments, and make oath that to the best of their knowledge there were no others; and the Court was empowered to fine the Forest officers for neglecting to prevent encroachments. But the Act of George IV. provided, that if it was alleged that the place in question was beyond the

52 Geo. 3,
c. 161, ss. 11,
13, 15;
repeated
10 Geo. 4,
c. 50, ss. 100,
104.

10 Geo. 4,
c. 50, s. 100.

limits of the Forest, the verderers had no power to decide the case, but were to certify it to the Attorney-General.

Rep. of Sel.
Com. of 1863;
Evid. pp. 22,
27.

The defence suggested was of course frequently set up, and many certificates were sent to the Attorney-General; but as he very rarely advised the Crown to go to the expense of prosecuting the offenders, they retained possession of most of the inclosures. In consequence, however, of the first Act, 47 presentments of encroachments were made in September, 1812; and 80, of which 59 were in Epping, in June, 1813.

Mr. Long
Wellesley's
Statement,
22 Feb. 1813,
Office of
Works.

At this time, Mr. Long Wellesley, who had assumed the office of Warden, consulted several of the Forest officers as to the prevailing abuses, and why they were permitted. Here is the Warden's description of the state of the Forest. Gravel and sand pits were open in all directions, and the materials removed without restraint; large spots of ground from which the turf had been removed; rods of ground dug up, and the soil removed for use in gardens both near to and distant from the Forest; bushes and underwood cut and removed at pleasure; deer-stealers so numerous, that there was hardly a small house in and for miles round the Forest, which did not contain one or more; greyhounds and lurchers kept by most of the poor inhabitants, and by unqualified farmers round the Forest; encroachments by inclosures and buildings in various parts; workpeople trespassing in all directions, and at all seasons; oak timber shamefully destroyed; young trees and tellers wasted; and pollards and underwood lopped and carried away.

The officers questioned, accounted for these excesses by stating that they had at considerable expense taken trespassers before the magistrates, but having been repeatedly disappointed in obtaining convictions for want of the support by the Warden or his Steward, they were obliged at last to decline proceedings, and to overlook misdemeanors.

Mr. Long Wellesley proceeds in his statement, to set forth how he had stopped the wasting of the Forest by giving notices, presenting encroachments, and prosecuting those who unlawfully kept dogs; and he boasts not a little of the good effect of his exertions.

The Rolls of the Court show that, in truth, a few convictions were obtained for various offences in the Forest. But the lessons taught by the case of *Boulcott v. Winmill*, and by the grant of the forestal rights in West Ham, had not been thrown away. In June, 1813, we find the steward of the manor of Barking, setting up a right to make grants under the custom of the manor; and at the next Court, the steward of Loughton, pointedly referring to the decision, asserted the power of the lord of the manor, to make grants of the waste for inclosure before applying to the Forest Court, though admitting that the Court could throw open the fences, if they were prejudicial to the forest rights.

Rolls, 28 June,
1813.

Id.

Rolls, 9 Aug.
1813.

At the same time the Court of Attachments virtually *id.* surrendered the whole position to the inclosers and the lords of the manors, by passing resolutions that it would not interfere either with past or future small encroachments on the sides of public roads or lanes, or in any other places within the legal boundaries of the whole

Forest where the deer did not usually depasture or come to feed; provided that the inclosers produced to the Steward of the Court, copies of the grants by the lords or ladies of the manors, in order that they might be enrolled as encroachments on the Forest. But encroachments made without grants from the lords, or the grants of which were not produced, were, by the order of the Court, to be thrown open. Encroachments in places where the deer did usually depasture, were to be presented to the Court, which would proceed in such manner as they should judge most proper for preserving the rights of the Crown and the jurisdiction of the Forest officers. These and other resolutions concluded with a provision, which might serve as a model for some modern administrators of the law, that the Steward should carry them into effect with as little inconvenience to the parties as was practicable. The roadside strips of grass land, which were of much value to the small commoners, and which added so much to the beauty of the Forest roads, were thus left at the mercy of any who chose to take them with, or subject to very slight risk, without the consent of the lords of the manors. As might be expected, only a few of the old encroachments were brought for inolment, and many new inclosures continued to be made, of which some only were stated to be with the consent of the lords.

Annual Register, vol. 4,
p. 81 (1761).

A proposal is said to have been under consideration in 1761, for dealing with the whole Forest by cantoning it into inclosures (which were to be planted with oak), for the benefit of fattening lean cattle for the use of the

navy: the underwood and timber being sold to defray the charges, or burned into charcoal for the use of Her Majesty's powder mills.

Nothing came of this scheme; but in 1817 the Commissioners of Woods and Forests gave notice of their intention to apply to Parliament for an Act to vest part of the Forest in the Crown; to extinguish the rights of common; and to disafforest the whole Forest.

Attachment
Roll, 22 Sept.
1817.

Their proposal was that two-thirds of the King's woods in Hainault Forest, containing about 3,278 acres, and the soil of which belonged to the Crown, should be allotted to the King; the other third, with the forestal rights over it, being relinquished to the commoners; the Crown retaining a right to cut and remove the timber and underwood, unless the land was allotted in severalty: in which case the owners of the allotments should have a right of pre-emption over the timber and underwood.

Circular issued
by the
Comrs. 6 Nov.
1817.

Of the remaining waste, computed to contain about 9,000 acres, ten fifty-second parts were to go to the Crown, free from rights of common and other rights; and the rest to the owners of estates and other persons having rights of common.

These proposals created great alarm through the Forest. Public meetings were held in opposition, and memorials signed by more than 1,000 persons were sent by twelve parishes, and also by a general meeting of lords of manors, verderers (of whom three out of four opposed the plan), and other Forest officers, landowners, and occupiers.

Hall's letter,
15 Apl. 1818.

The Rector of Loughton, Mr. Burgoyne one of the

Letters,
25 Nov. 1817;

18 Apl. 1818; Verderers, and Mr. Rigg the Riding Forester, are the
26 Nov. 1817.

— only persons whose opinions in support of the scheme are
Letter, on record; but the Lord Warden in 1819, stated his
19 June, 1819. approval of a general disafforestation.

30 March, 1818. The effect of the opposition, however, was that
another circular was sent out by the Office of Woods and
Forests, stating that they never intended to urge a general
inclosure of the wastes contrary to the wishes of the
majority of the freeholders, but only wished to obtain
separate allotments for the Crown in respect of its
interests; and to leave the rest for the landowners free
from the Forest Courts, the pasturage of the deer, and
Heds of Bill. the other forestal rights of the Crown. Adhering to the
original proposal as to the proportions in which the
Hainault wastes should be divided, they now put the
Crown rights in the Epping division at nine thirty-second
instead of ten fifty-second parts; proposing that the timber
should be taken by the owners, or be paid for by the
Crown, that the deer should be removed, and the Forest
disafforested at the end of two years.

Resolutions, The amended scheme was also vigorously opposed
11 and 14, and
letter, 15 Apl. by the committee appointed by the Forest parishes and
1818. the landowners; the latter of whom, however, acquiesced
Commn. on in the disafforestation and the removal of the deer, and
New and Waltham the former in the inclosure of the King's woods. The
Forests, 1850, bill passed the House of Commons in 1818, but from
Parly. Papers, want of time to carry it through the House of Lords, it
vol. xxx. was withdrawn.
Sec. Rep.
pp. 62, 63.

Rolls, 18 Sept. The Court of Attachments again met in 1830, after
1830. an interval of thirteen years, and its records contain

seventy-three presentments of inclosures, for the most part of the same character as those made in former years. One contained twenty-two acres, another over six, another five; and there were four containing two acres each. The contents of the rest were expressed in rods and yards, and the whole amounted to over sixty-six acres. No action was taken by the Court, and the presentments were again made with others in July, 1831. But the Court agreed to take no further proceedings, but to seek the co-operation of the Commissioners of Woods and Forests in preventing further inclosures in the Forest. Nothing came of this, and in the next year about twelve more acres had been stolen.

Rolls, 24 Sept.
1831.

Rolls, 16 June,
1832.

In March, 1836, the Commissioners suddenly showed signs of life by giving notice that they intended to enforce the rights of the Crown in all proper cases, and to proceed in the Court of Exchequer against all persons who in future should make inclosures without licence; and they did in fact abate some encroachments, and brought several informations; of which one, viz., *A.-G. v. Brown*, after dragging its slow length along for several years, stood over to wait the result of another—*A.-G. v. Hallett*—relating to the inclosure of fifty acres in Knighton Wood, in which the Crown ultimately succeeded. But in the meantime, the pendency of the case against Brown was used by the inclosers and their sympathizers in the Verderers' Court as an excuse for staying proceedings there against other encroachers.

14 March,
1836.

In 1831, the Lord Warden, who now openly supported the inclosures, appointed the steward of his own manor of Wanstead, to be Steward of the Court of Attachments;

Rolls, 9 July,
1831.

and the Steward, Mr. Cutts, actually appeared in that Court, of which he was an officer, and the duty of which was to preserve the Crown rights in the Forest and to abate illegal inclosures, and contended, on behalf of a person summoned for making such an inclosure, that the land having been granted by the lord of the manor, the Forest Court had no jurisdiction.¹

The inclosures presented at the Court held in July, 1831, were 136 in number, and comprised more than 240 acres. Three of the inclosers were lords of manors, and one of them had inclosed to the extent of about 50 acres. The Court was pressed to certify the case defended by the Steward, to the Attorney-General for prosecution; but after taking time to consider, two of the Verderers voted one way and two the other, and the case was therefore dismissed. Of the four Verderers three were lords of manors. One of the Verderers admitted that he voted against certifying inclosures to the Attorney-General, because he thought it hard to put a lord, who alleged a right against the Crown, to the expense of a lawsuit to establish his right.

Rep. of
Secretary of
Commn. p. 65,
Parly. Papers,
vol. xxx.

Attachment
Rolls.

The other inclosers soon took the hint given them by the Steward of the Court. In April, 1843, out of many cases before the Court, about twenty were undisposed of, the Verderers being divided as to some, and postponing or coming to no decision as to others. In

Shorthand
writer's Notes
of Proceed-
ings, p. 4394.

¹ When examined before the Epping Forest Commissioners he said: "If one of the under keepers at Wanstead made a presentment of an inclosure at the Court of Attachments, I should have laughed at him, and kicked him out of the Court of Attachments, and stuck by my manor."

two cases it was contended that the manors had been disafforested. At the next Court several cases were ordered to stand over until the decision of the Attorney-General's proceeding against Brown; in others the right of the Court to interfere against grants by the lords was denied, and although some of the inclosures were ordered to be thrown down, the orders were not obeyed.

Rolls, 11 May, 1843.

See Petn. of Freeholders to H. of Commons, 1848.

A struggle which now arose about inclosures made by the lord of the manor of Theydon Bois, shows how the verderers neglected their duties. The inclosures were presented in February, and some of them which the incloser admitted to be illegal, were both ordered, and promised by him to be thrown open in April, 1843.

Attachment Rolls.

This not having been done, he was required by the Court, at the request of some of the freeholders in July, 1843, to abate the inclosures forthwith; and in December it was ordered that they should be knocked down. In August, 1844, it was reported by the under keeper that they still remained; upon which, by the order of the Court, the Steward wrote to inform the solicitors of the Commissioners of Woods and Forests of the fact, and requested that the under keeper might be instructed to prostrate the fences; who answered that they had informed the Commissioners, and could not interfere without their instructions. During all this time the verderers had ample statutory powers to abate the inclosures; but upon being requested by several of the freeholders to give effect to their own order, they would only agree to do so upon receiving an indemnity said to have been promised by the Commissioners. This indemnity had

not been received in February, 1845, at which time the Court adjourned until the case of the *Attorney-General v. Brown* (begun in 1836!) had been decided, or until further notice.

Office of
Works.

Id.

In 1845 a number of inhabitants of Woodford and other parishes, both on behalf of themselves as commoners, and of the public who resorted to the Forest for recreation, petitioned the Commissioners to require the removal of the encroachments which the verderers neglected to abate; but the Commissioners (who were busy in obtaining from the keepers a census of the deer in the Forest do not appear to have complied with this request. The encroachments still remained, and others continued to be made; and in 1848 the landowners presented a petition to the House of Commons, in which they stated that the verderers refused to hold a Court, and besought the House to compel the Forest officers to perform their duties, to protect the rights of the Queen and the petitioners, and to preserve the Forest as a place of recreation.

Id.

After the Courts had ceased for three and a half years an attempt to hold another Court was made in August, 1848, but the Steward and one of the Verderers agreed that it was not legally summoned, and said that the decision which had now been given in favour of the Crown in the action against Hallett relating to the inclosure of Knighton Wood, was the result of a compromise, and was therefore of no authority.

Courts were however held in October and November, 1848, at which further encroachments were presented;

and with the last of these, the sittings of the Court of Attachments practically ceased, although, as I have already stated, there are notes of the holding of another Court on the 15th January, 1849; at which the Warden claimed to be the sole judge, and refused to allow the Steward of the Court to act; while one of the Verderers used violent and abusive language about the Commissioners. This was in fact the conclusion of the business. "Finding nothing done," said Mr. Copeland, one of the Master keepers, "we gave it up in despair." But another Court at which the verderers were present was held at the King's Head at Chigwell on the 1st August, 1853; and it is said that Courts continued to be held until 1854.

Note in
Office of
Works.

Evidence
before Sel.
Com. 1863,
p. 39. —
Certificate of
swearing of
George Luff-
man, Office of
Works.
Evidence of
Col. Palmer
before Sel.
Com. of 1863,
p. 21.

Thus the last of the Forest Courts became extinct, after an existence, with some intervals, of at least 700 years, and, probably, of a much longer period; its actual destruction being due to the inefficiency and selfishness of its own judges, and not to any attack from without. But the primary cause of the extinction of this and of the other Forest Courts, arose many years earlier. Originally established for ministering to the King's pleasures in a cruel and half-barbarous age, the gradual disuse or suspension of those pleasures took away the principal object of the Forest laws; and from the time of the discontinuance of the Court of Justice Seat, and of its satellite the Swainmote, the Chief Justice became little more than a figure-head. He could not summon a Court without the King's writ; and without a Court he had no power to punish offences.

The principal occupations of him, and of his successors the Commissioners of Woods and Forests, appear

Attachment
Rolls, 3 June,
1723.

to have been the granting of licences to cut down woods, to inclose Forest lands, and to sport ; while the Court of Attachments registered these licences in the morning, and (if we may judge by its order, that every holder of a sporting licence should supply three dozen of wine to its officers,) made merry in the evening.

If the duty of preserving the deer had become of less immediate consequence, that of guarding the right of the Crown to prevent inclosures remained ; and the Verderers, who, either from timidity or selfishness, first neglected, and then refused, to enforce the statutory power which had been given them to abate the inclosures, and to punish the neglect of their officers ; and the Commissioners of Woods and Forests, who, by refusing to authorize the prosecution of offenders, made it impossible to stop the inclosures, and then, as will be seen in the next chapter, sold the Crown rights over a great part of the Forest wastes, must be held responsible for the loss which ensued, not only to the Crown and the commoners, but to many innocent purchasers of the inclosed lands. It was fortunate for the people of London that a time was coming when another public body, which was neither selfish nor timid, had the wisdom to use its great resources to remedy much of the mischief.

CHAPTER VIII.

*How the Wastes were Disafforested and
made Places of Recreation.*

" Moreover, he hath left you all his walks,

On this side Tyber: he hath left them you,
And to your heirs for ever; common pleasures,
To walk abroad, and recreate yourselves,"¹



HAVING thus attempted to trace through many centuries the history of the Forest, its laws and customs, and the doings of its Ministers, it remains for me to describe the events of the next thirty years; at the end of which, after many hard fights, the confusion which had caused the breaking up of the Court of Attachments, and had been increased by the action of the Commissioners of Woods and Forests in one direction, and by that of Parliament in another, was terminated by the full establishment of the rights of the commoners, and by the purchase, and dedication to the use of the people, of the soil of the waste lands.

In 1849, an Act of Parliament was passed, under which a commission, commonly known as Lord Portman's

<sup>12 & 13 Vict.
c. 81.</sup>

¹ Julius Cæsar.

Commission, was appointed to inquire into and to report upon the rights or claims over the New Forest and Waltham Forest ; to ascertain the bounds of the Forests, and of the lands of private owners in them ; to inquire into purprestures, encroachments, and unlawful inclosures, affecting the forestal rights of the Queen, and the claims of common and other rights in the Forests ; their origin, nature, particulars, and probable value ; to consider proposals for extinguishing them ; and to inquire into the nature and jurisdiction of the Forest Courts, and the expediency of remodelling or abolishing them.

A great number of persons interested in the Forests sent in claims¹ to the Commissioners, who, in 1850, presented a report, to which was annexed a very long sub-report by their secretary ; the latter very inaccurate as to facts, and both containing many doubtful statements of law, supported for the most part only by *ex parte* opinions which had been given on behalf of the Crown. The Commissioners made the amazing suggestion that the Crown should recoup itself for its losses caused by unlawful inclosures of the wastes (which had happened by the negligence of its own officers), by making further inclosures from the remaining wastes without regard to the rights of the general body of the commoners.

They further proposed that the deer should be removed, and the Forest disafforested, if the lords and the owners could agree to settle their disputes ; otherwise, that the Crown should consider whether it ought to incur the expense of maintaining its rights over the non-

¹ Abstracts of these will be found in the "London Gazette" for 1852.

demesne parts of the Forest, for the benefit of the local owners, and without advantage to the Crown or the public. As to the Crown demesnes, they proposed that allotments should be made to the commoners of part of the soil, and that the remainder should be reserved in absolute severalty to the Crown.

Pending the inquiries under this commission, the Crown officers did not consider it advisable to incur any expense in prosecuting cases certified by the verderers under the Act of 10 George IV., although eleven presentments were so certified in January and April, 1849.

In accordance with the advice of the Commissioners, an Act was passed in 1851, for the disafforestation of Hainault Forest. 14 & 15 Vict.
c. 43.

The wastes of this part of the Forest contained about 4,000 acres, of which 2,842 acres were Crown property, known as the King's woods. Of the rest, 1,104 acres lay in one tract on the north of the King's woods, and in the manors of Chigwell and West Hatch, Woolston Hall, Barringtons, Lambourn, and Battle Hall; and other detached parts of the waste were in Navestock and Woodford, and at Tom at Wood's Hill, on the west of the King's woods. *Re Hainault
For. Act,
9 C. B. N. S.
648.
Rep. Sel.
Com. 1863,
Evidence,
pp. 53, 58.*

There were also within Hainault Forest about 13,000 acres of inclosed lands.

About 1,917 acres of the King's woods, upon which were upwards of 100,000 trees of oak, hornbeam, and other woods, were allotted to the Crown¹ under this

¹ The Crown out of this allotment was to satisfy certain rights claimed by the lord of the manor of Barking.

Report of Sel.
Com. 1863,
Evidence,
p. 59.

Act by way of compensation for its rights of forest, soil, timber, and underwood; and the residue remained unallotted, the timber upon it being sold to discharge the expenses incurred under the Act.

Supra, p. 263.

The value of the fuel rights of the poor widows of Barking and Dagenham, which I have elsewhere mentioned, was invested for their benefit; the deer were removed, and the right of the Crown to keep them taken away; and the offices of the Lord Warden and of the other ministers of the Forest, so far as regarded Hainault, were made to cease, the holders being compensated.

Rep. of Sel.
Com. 1863,
Evidence,
p. 71.

The Lord Warden received for his compensation 5,250*l*.

21 & 22 Vict.
c. 37.

No provision having been made for disposing of the fuel assignments, or for ascertaining the nature of the rights of common in the unallotted parts of Hainault, another Act was passed in 1858, by which it was directed that the assignments should be valued and compensated out of the unallotted lands; that it should be ascertained what was the nature of the pasture rights, and whether they existed indiscriminately over all the commonable lands within the bounds of the late Forest, or were limited to the particular parish or place in which the lands which gave the right were situated; and that the commonable lands should be apportioned accordingly.

Supra, p. 305.

I have stated the result of this inquiry in the chapter which relates to Common of Pasture.

Sel. Com. of
1863, Rep.
pp. 58, 59.

As to the Crown allotments, the expenses of clearing, draining, fencing, making roads, and erecting farm buildings, amounted to 42,000*l*., which was paid for by the sale of the timber on the allotments; and in 1863

the Commissioners of Woods and Forests were able to boast of a rental of more than 4,000*l.* per annum received from the Crown allotments, in lieu of a former precarious income of 500*l.* per annum, derived from the occasional cutting of timber.

It will be remembered, that in 1805 the Commis- *Supra*, p. 334.
sioners of Woods and Forests sold the manor of West Ham, with the wastes and the Crown rights of Forest. No further sale of these rights was made until 1821, when the lord of the manor of Higham Hills bought the forestal rights of the Crown in his wastes. After another long pause, the Commissioners of Woods and Forests, under warrants from the Treasury in 1855 and 1857, continued the sale of the Crown forestal rights down to 1863; and not content with pressing them upon the lords of the manors, they in effect sanctioned and encouraged the illegal inclosures, by inviting those who held them to buy the Crown rights in the encroachments; threatening, in one case, to cause the inclosures to be *Id.*
abated in case of non-purchase; and justifying their action upon the ground that they were bound to deal *Id.* Ev. of
with the Crown rights in such a manner as to produce Hon. I. K.
the greatest benefit to the taxpayers, without any regard Howard,
to the convenience of the people of the locality, or of any pp. 20, 21.
other less portion of the public. The subject of conveyance was "All the rights of forest of the Queen's Majesty"; but the legal advisers of the Crown refused Case sub-
to state what would be the effect of the grant. mitted to
Counsel by
Mr. Maitland.

The average price at which the rights were sold

was about 5*l.* per acre; the entire sums paid being as follows :¹—

1821. Higham Hills	£1,232	0	0
1856. Cann Hall.....	232	5	6
1856 and 1862. Woodford, Ruckholt, and Wanstead ..	1,910	9	9
1857. Theydon Bois	1,353	10	0
1858. Chigwell and West Hatch	1,147	6	0
1859. Chingford Earls	900	0	0
1860. Loughton	5,468	13	0
1863. Sewardstone.....	3,349	10	0
	£15,593	14	3

Besides which, in the case of Higham Hills, the Lord Warden had 352*l.* as compensation for the loss of his rights in the manor.²

Hansard,
vol. 169. 309.

In February, 1863, the House of Commons sent up an address to the Crown, praying that directions might be given, that no sales to facilitate inclosures might be made of Crown lands or Crown forestal rights within fifteen miles of the metropolis. And in the same year a Select Committee of the House of Commons, appointed to

Hansard,
14 Feb. 1870.
Rep. of Sel.
Com. of 1863,
Ev. of
A. A. Collyer
Bristow, p. 71.

¹ I take the figures from the answers of the lords in the suit of *The Commissioners of Sewers v. Glasse*. According to the report of the Select Committee of 1863, the sum was 15,795*l.* 16*s.* 6*d.* Mr. Fawcett, in moving for an address to the Crown in 1870, put it at 18,603*l.* 16*s.* 3*d.* Perhaps purchases of the rights in encroachments were included.

² This appears to be the only instance in which the Lord Warden was compensated on the sale of forestal rights. Afterwards the Crown officers only took their own purchase-money, and left the Warden's trustees without remedy for the loss of their rights, telling them that they might go and exercise them if they pleased.

inquire into the condition and management of the Royal Forests in Essex, and into any inclosures therein since the report of the Commissioners of 1850, and to consider whether it might be expedient to take any steps for preserving the open spaces in the Forests, reported, that Waltham Forest, which anciently comprised a large portion of the county of Essex, appeared to have been gradually diminished by inclosures,¹ and at the time of perambulation in 17 Car. I. was considered to contain 60,000 acres, of which 48,000 were inclosed private property, and 12,000 acres uninclosed woods and wastes,² and that 2,000 acres more had since been lost to the Forest by inclosures; that Hainault had been disafforested, and that the remaining uninclosed part of Epping Forest then consisted of about 7,000 acres; that the forestal rights of the Crown recommended to be sold by the Land Revenue Commissioners in 1793, though producing nothing to the revenues of the country, and an incumbrance to the owners of the soil, had contributed to keep in a state of wild forest land a considerable space of open ground in the neighbourhood of the metropolis, which had been a source of health and recreation to many of its crowded population; that the forestal rights of the Crown over 3,513 acres had been sold, and that a considerable extent of ground had been inclosed without purchase of the Crown rights over it; and it was recommended

¹ It will be seen by perusal of my first chapter that this statement gives a very inaccurate impression of the facts.

² This quantity tallies somewhat too closely with the report of 1793, which makes the acreage to be then 11,939. But the last chapter shows that much land was inclosed between the two periods.

that immediate steps should be taken by the Crown to assert its rights, and to abate the inclosures.

The notices issued from the office of Woods and Forests inviting encroachers to purchase the Crown rights, were declared to have had a tendency to encourage encroachments, and to have affected injuriously the rights of the Crown; and the Committee were of opinion, that to employ the forestal rights of the Crown to obstruct the process of inclosure to which the lords, commoners, and copyholders of the Forest manors were entitled, in common with all other persons similarly situated, would be of doubtful justice, and would probably fail in effect. They also pointed out that no part of the Crown estates in Hainault could have been allotted for recreation, but regretted that when nearly 1,900 acres were allotted to the Crown, no application was made to Parliament for an allotment for that purpose. They recommended the obtaining the sanction of Parliament for the inclosure of the residue of the Forest; the ascertaining the rights of the parties interested; and the providing "partly by these means," and partly by purchase, for securing an adequate portion of the Forest for the purposes of health and recreation, for which the Forest had from time immemorial been enjoyed by the inhabitants of the neighbourhood and the metropolis.

See Hansard,
vol. 172,
col. 1055.

No action was taken on this report, the Committee having failed to point out how their advice was to be carried into effect.

They were evidently embarrassed by the claims of those who sought to keep open the Forest wastes as recreation grounds, without providing compensation to

the owners of the soil; it being clear that, except in the case of village greens and lands dedicated to the public enjoyment, the people cannot acquire a legal right to take their recreation at pleasure over the lands of any person. And although the use of the Forest for recreation, to which the inhabitants of London had been accustomed for a very long time, might fairly be urged in support of the argument that the lands should be preserved for public pleasure, it was a very bad reason for taking it without recompense to the owners; many of whom, under pressure from the agents of the Crown, had been induced to buy, for large sums of money, rights which they might fairly suppose would give them complete dominion over the land.

In the meantime, the effect of the sale of the Crown rights was, that the lords of the manors, relieved from the restrictions imposed by the Forest laws against the cutting the woods, and inclosing the wastes, very naturally began to recoup themselves for their expenditure, by granting portions of the wastes to purchasers, and by making large inclosures on their own account.

The commoners, a scattered and feeble folk, were very little considered. The nature of their rights being ignored, or not understood, it was contended that they could only turn out their cattle upon the wastes of the manors in which their lands were situate, and that the absence of boundary fences alone, was the foundation of the right or practice of allowing them to stray over the wastes of the other Forest manors. In some manors the Courts were held very irregularly; and if any one attended

Rep. of Sel.
Com. 1863,
Evidence,
p. 29.

for the purpose of objecting to grants of the waste, the Court at which they were to be made was not opened till eight or nine o'clock at night, when the wearied objectors had departed. In one manor the homage summoned consisted of persons who were to receive grants of waste; when it came to the turn of one of them to receive a piece of land he retired from the homage and another took his place; and when the grant had been made to him, he returned to his post and assisted in granting land to others. Thus the rights of the commoners were overridden by collusive acts which in theory were done according to the custom of the manor. In other manors, with an exception to be presently mentioned, the commoners were left to take any remedy which they could find.

Answers of
Defendants in
*Com. of
Sewers v.
Glasse.*

The following inclosures were thus made, for the most part at or shortly after the purchases of the Crown rights in the manors in which the lands were situate.

In Wanstead, between 1852 and 1869, there were 102 inclosures containing over 286 acres. Two of these contained 46 acres each, and another 18 acres; but the general average of each was only about $2\frac{3}{4}$ acres.

In Woodford, in and between the same years, 146 inclosures, containing over 205 acres; the largest piece being only 6 acres.

In Ruckholt, in and between 1857 and 1869, 22 inclosures, containing more than 41 acres.

In Aldersbrook, in 1852, one inclosure of over 9 acres.

In Westham, in 1856, all the waste.

In Higham Hills, 4 inclosures in and between 1851

and 1866, containing more than 96 acres; besides many small inclosures.

In Chingford Earls, in 1859, 67 acres with some small pieces.

In Chigwell and West Hatch, in and after 1851, 69 inclosures, besides in the Epping division of the Forest; one containing 75 acres, and another 85 acres, the rest being small pieces.

In Sewardstone, in and between 1859 and 1870, over 271 acres, of which the lord had 238 acres.

In Loughton, in and between 1851 and 1871, 167 inclosures or grants, of which the lord had 8, amounting to about 939 acres; the rest being mostly very small pieces granted as compensation for rights of common.

In Theydonbois, after 1857, over 305 acres.

In Epping, 3 or 4 acres.

In Waltham Holy Cross, 12 or 13 acres.

In Chingford St. Paul's, about 1853, more than 190 acres.

Rep. of Sel.
Com. 1863,
Evidence,
pp. 44, 49.

It was only in the manor of Loughton, that an attempt was made to compensate the commoners as a body, for the loss of their pasture rights, by grants of small portions of the waste, or by the payment of money.

It will be remembered that this was the manor in which the right of lopping still subsisted as a common right; and the inclosure and attempted sale of parts of the waste, upon which there were pollards subject to be lopped, was the cause of the earliest attempt to stay the destruction of the Forest by a suit in the Court of

L. R. 3 Eq.
103.

Chancery. This was begun in 1866¹ by Thomas Willingale, a Loughton labourer (who was supported by some members of the Commons Preservation Society), against the lord of that manor. A preliminary legal objection was decided in favour of the plaintiff, but it was afterwards found that the origin of the right claimed had been mistaken; and neither this, nor another suit brought against the lord of the same manor, by a plaintiff named Castell, were ever brought to a hearing.

Hansard,
vol. 199,
c. 246.

As inclosures still continued, a motion was made and carried by Mr. Fawcett in the House of Commons in 1870, for an address to the Queen; which, as altered according to a suggestion made on the part of the Government, prayed that Her Majesty would take such measures as in her judgment she might deem most expedient; in order that Epping Forest might be preserved as an open space for the recreation and enjoyment of the public.

Id., vol. 203,
c. 1272.

In accordance with this resolution a Bill was prepared by the Government in the same session, by which it was proposed, that of the 3,000 acres which then remained uninclosed, the lords should give up 1,000 acres to be vested in three commissioners, with power to sell 400 acres in order to provide compensation for the commoners; and the remaining 600 acres, with any part of the 400 acres which the Metropolitan Board of Works might think fit to purchase, were to be for the use of the public: the Crown rights which remained being given

Hansard,
vol. 208,
c. 1645.

¹ In this year the Forest was transferred from the Commissioners of Woods and Forests to the Commissioners of Works.

up, and the costs of the Bill being borne by the Government. The Bill was too late for the session, but it was announced for reintroduction in the following session.

As the Government did not intend to buy the rights of recreation for the public, who had no legal rights of their own, the proposal was certainly not unreasonable on the part of the lords; but it failed to satisfy those who desired to keep open the whole Forest. And in April, 1871, a motion by Lord Mount-Temple, then Mr. Cowper Temple, in the House of Commons, was carried, against the opposition of the Government, "that it was expedient that means be adopted in accordance with the address presented to the Queen in February, 1870, for preserving as open space, accessible to Her Majesty's subjects for purposes of health and recreation, those parts of Epping Forest which have not been inclosed with the assent of the Crown or by legal authority."

Hansard,
vol. 205,
col. 1852.

This led to the passing of the Epping Forest Act, 1871, by which Commissioners were appointed to continue as to Waltham Forest the inquiries, and to exercise the powers given by the Act of 12 & 13 Vict. as regarded it and the New Forest; to prepare a scheme for disafforestation, and for preserving and managing the waste lands; and to suggest how the expenses of compensating the persons whose rights were affected by the scheme, and of managing the waste lands, and other expenses, should be defrayed.

34 & 35 Vict.
c. 93.

But on the 14th August, 1871, which was exactly a week before this Act received the Royal assent, the

Corporation of London began the proceedings, by means of which the difficulties which had beset the matter for so many years, were at last overcome.

35 & 36 Vict.
cap. c.

The Corporation, being entitled by prescription and charter, to certain dues in respect of the compulsory metage of grain imported into London, obtained an Act of Parliament in 1871, by which a small fixed duty, payable for thirty years, was substituted for the metage dues; and was directed to be held by the Corporation for the preservation of open spaces in the neighbourhood of London, but not within the metropolis; and power was given to the Corporation, to borrow for this purpose on the credit of the duty and of their estates and revenues, sums not exceeding £90,000.

It was determined to apply these resources in rescuing the wastes of Epping Forest from inclosure, by asserting the rights of the commoners against the lords of the manors; a course which in several manors in the neighbourhood of London had already been adopted with success.

It happened that the Commissioners of Sewers of the City of London, a body closely connected with the Corporation, were the owners of about 200 acres of land within the Forest, and situate in Aldersbrook, in the parishes of Little Ilford and Barking, and in the manor of Wanstead. Part of this estate had been converted into a cemetery, but the rest was used as a farm from which cattle were turned out upon the Forest waste in Wanstead; and it being still assumed that the rights of common were manorial rights, it was proposed that the

Commissioners should proceed in the Court of Chancery against the lords of that manor, to restrain the inclosures of its wastes; and that suits should also be brought for the same purpose, against the lords of the other Forest manors who had inclosed, by some of their commoners. The event showed that even if this mode of proceeding had succeeded in some of the Forest manors, it must have failed in others, on the evidence; and for another reason to be presently mentioned, it would probably have been entirely abortive.

Being requested at this time to advise the Corporation as to the best mode of attaining its object, I came to the conclusion, after examining a number of ancient documents relating to the Forest which were submitted to me by Mr. Robert Hunter, acting as agent for the City Solicitor, that the rights of the commoners were neither of a manorial character, nor confined to the wastes of the particular manor in which the lands which gave the rights were situate; but that each commoner had the right of pasture, which I have described in a former chapter, over the whole waste of the Forest; that this right being, according to the Forest laws or regulations already mentioned, founded upon the situation of the commoners' land within the Forest, was not affected by the sale of the forestal rights of the Crown over the wastes, to the lords of the manor or other purchasers; and that the Corporation could proceed against all the lords, in respect of their inclosures made within the last twenty years in one suit; each inclosure being an infringement of the

general right of all the commoners throughout the whole Forest.¹

It was necessary, in order to stop the inclosures which were rapidly proceeding in Wanstead, to commence the legal proceedings without waiting to ascertain if the practice of the Forest commoners agreed with this view of their rights;² in accordance with which, on the 14th August, 1871, a bill was filed in the Court of Chancery by the Commissioners of Sewers (who were indemnified by the Corporation) on behalf of themselves and the other owners and occupiers of legally inclosed lands in the Forest against the lords of sixteen manors, the Attorney-General, and (by amendment) against two purchasers of illegally-inclosed lands, to establish the rights of the owners of lands in the Forest and their occupiers, to pasture their commonable cattle on the Forest wastes, and to restrain the inclosure and digging up of the soil.

*Com. of
Sewers v.
Glasse.*

*Rep. of
Coal, Corn,
and Finance
Com. 1875,
p. 5.*

In the next session of Parliament an attempt was made to get rid of the suit of the Corporation by means

¹ It was impossible at that time to sue a number of persons in one action, for the purpose of establishing distinct rights against each of them; but a general right might be claimed against a number of persons who infringed it, though the rights of the latter were distinct.

² This was effected, under the superintendence of Mr. Hunter, by the late Mr. George Mickelwright, by whose industry, patience, and acuteness in ascertaining the facts from a great number of aged residents, the ancient practice of the Forest within living memory and by tradition, was found entirely to bear out the inference drawn from the entries on the rolls of the Forest Courts, and from the ancient claims.

of an Act for enlarging the powers of the Commissioners appointed in 1871. Several other actions relating to the illegal inclosures were then pending, and it was proposed to stay proceedings in all of them. But in consequence of a strong opposition, led by Mr. Cowper Temple, the Bill was withdrawn from the House of Commons and introduced into the House of Lords, and by it referred to a Select Committee; which, after hearing counsel, excepted the suit of the Corporation from the provision by which all legal proceedings were to be stayed, and further proceedings, without the consent of the Commissioners, forbidden, until after their final report. This was done upon the ground that the suit of the Corporation had already raised the questions of law, the determination of which would probably be necessary or convenient, before the Commissioners could report.

Epping Forest
Amendment
Act, 1872.

It can hardly be doubted that if the Corporation had proceeded separately against the lord of each manor, as originally proposed, the enormous litigation would have been stopped by Parliament, and the whole matter would have been left to the Epping Forest Commissioners.

About this time the Forest Court of Attachments was revived for a short time. Colonel Palmer being the only surviving Verderer, a writ for an election of three Verderers to fill the vacancies, was issued to the Sheriff of Essex; and Sir Antonio Brady, Mr. Thomas White, an Alderman of London, and Mr. Wythes were elected. The Verderers held Courts at the Castle Hotel at Woodford,

Rep. of Coal, on the 16th September and the 26th October, 1871;
&c. Com. of
Corpn. 1876, and it was determined at the latter Court to refer the
P. 3. presentments which had been made of unlawful inclosures
of nearly 3,000 acres of waste to the Swainmote, in order
that they might be there tried by a jury according to the
Forest law. It is not probable that any advantage would
have been gained by this proceeding; for even if the
attempt to restore the Swainmote had succeeded (which
could not have happened without the assistance of the
Lord Warden, who presided at it), that Court had no
power to abate the inclosures. But the result was,
that after an attempt by the lords to dispute in the
Queen's Bench the powers, such as they were, of the
revived Court of Attachments, its proceedings were
suspended by the Epping Forest Act, 1872, already
mentioned.

The Epping Forest Commissioners of 1871 carried
out their duties by perambulating the bounds of the
uninclosed wastes within the regard of the Forest,
adopting, so far as they could be ascertained, the bounds
laid down in 16 Charles I., but omitting Nazing Park,
which had become an inclosed limited pasture; and they
ascertained what parts of the wastes had been inclosed,
within twenty years¹ before the passing of the Act from
which they derived their powers.

¹ Adopting in this respect the principle followed in the suit of the
Corporation, that having regard to the then Statute of Limitations, it
would be useless to dispute inclosures which had practically been
undisturbed for twenty years.

They also heard elaborate arguments by counsel for all parties who claimed an interest in the Forest, in the course of which they sat for 102 days, and heard and recorded 21,853 answers to questions put to 239 witnesses; besides examining the immense mass of documents relating to the Forest, its Courts, and the proceedings and correspondence of the Commissioners of Woods and Forests.¹

Rep. of Coal,
Corn, and
Finance Com.
to Court of
Common
Council,
28 June, 1875.

On the 24th November, 1874, pending these inquiries, a decree was pronounced by Sir George Jessel, then Master of the Rolls, in the suit of the Corporation against the lords of the Forest manors, the arguments and examinations in which—conducted for the Corporation by Mr. (now Justice) Manisty, Mr. (now Lord Justice) Fry, the late Mr. Joshua Williams, Q.C., and myself, and by a great number of counsel for the different defendants—had occupied twenty-three days. The decree declared, that the owners and occupiers of lands (not being waste) in the Forest, were entitled in right of their lands within the Forest, to common of pasture on the Forest wastes for all manner of cattle (that is to say, neat beasts and horses) commonable in the Forest, levant and couchant upon their lands, according to the assize and customs of the Forest.

L. R. 19 Eq.
134.

The Corporation, waiving their right to an injunction,

¹ Such of the documents as were in the possession of the Crown were produced under the advice of Mr. P. H. Lawrence, who was then solicitor for the department.

in respect of lands which had been actually built upon or used as gardens or curtilages of houses before the commencement of the suit, or which had been actually inclosed for twenty years, were also declared to be entitled to an injunction to restrain the other inclosed Forest wastes from remaining inclosed or built upon. And the future inclosure of or building upon the Forest wastes, was also forbidden.

In March, 1875, the Epping Forest Commissioners made their preliminary report. They found that the inclosures made within twenty years before the passing of the Act by which they were appointed, were unlawful against the Crown and the commoners where the Forest rights had not been, and against the commoners where they had been, released. As to the rights of the commoners, they reported in accordance with the decree of the Master of the Rolls.

They also found that the wastes within the regard of the Forest contained 6,021*a.* 0*r.* 28 $\frac{1}{4}$ *p.*, of which 3,014*a.* 1*r.* 6 $\frac{3}{4}$ *p.* were open waste, and 3,006*a.* 3*r.* 21 $\frac{1}{2}$ *p.* were inclosed (*i. e.* unlawfully); that the forestal rights had been released over 3,558*a.* 1*r.* 10 $\frac{3}{4}$ *p.*, and remained over 2,462*a.* 3*r.* 17 $\frac{1}{2}$ *p.*; and that although the public had long wandered over the Forest wastes without let or hindrance, the Commissioners could find no legal right to such user.

Soon after the date of this report, the Corporation of London began to purchase the soil of the open waste lands of the Forest manors.

In 1875 they bought those of Chingford	A.	R.	P.
St. Paul	275	3	11
In 1876 those of Loughton	992	3	36
Waltham Holy Cross .	768	0	25
Higham Hills and			
Woodford	122	2	33
Sewardstone	674	1	20
Cann Hall	72	3	35
Chingford Earls . . .	141	2	9
	3,048	2	9

together with the forestal rights of the Crown, in those manors in which the lords had acquired them.

In 1877 the Epping Forest Commissioners, whose 1 March, 1877. powers had been extended by further Acts passed in 1875 and 1876, signed their final report; in which, after dealing with several subordinate matters, including a report that they were unable to find evidence sufficient to establish the claim of the Corporation to hunt in the Forest, they presented their scheme for the disafforestation of the Forest, and the preservation and management of the waste lands as an open space for recreation.

It is not necessary to state the details of this scheme, which was superseded by the Epping Forest Act, 1878. But a strong objection was made to their proposal that the grantees of inclosures declared to be illegal both by the decree of the Master of the Rolls, and by the preliminary report of the Commissioners themselves, should be allowed to keep them on payment of rent-charges. A result of this proposal was that Mr. George Burney, one

Report of
Epping For.
Com. of Con-
servators
(1883), p. 32.

of the Forest commoners, assisted by a number of workmen, removed the fences of several of these inclosures. The consequent litigation involved him in heavy expenses, a considerable part of which was repaid to him by the Corporation, on the ground that his action materially influenced the Government, in disregarding the recommendation that these inclosures should remain.

41 & 42 Vict.
cap. ccxiii.

The Government, with the assent of the Corporation, now proceeded to a final settlement of the matter by passing the Epping Forest Act, 1878; a great part of which (excluding the arbitration and some other clauses) is in the words of the scheme prepared by me for the Corporation of London, and submitted by them to the Epping Forest Commissioners.

Sect. 4.

The Act disafforested Epping Forest, and put an end, as regarded it, to the Crown rights of vert and venison, the Forest Courts and offices, and the burdens and restrictions of the Forest laws and customs. The

Sect. 1.

words "Epping Forest," were however limited in meaning, to the lands delineated on the plan annexed to the final report of the Epping Forest Commissioners, as ascertained by them; and as these only consisted of the waste lands, the inclosed lands within the regard of the Forest are still technically Royal forest, and subject to the Forest laws and customs; and in respect of them, the commoners may perhaps still claim their rights, as

Sect. 5.

well as under this Act, by which they were expressly continued. The Act does not in any way deal with the Crown rights in the Forest purlieus, and these may in fact be considered to be obsolete.

Power was given to the Queen to appoint a Ranger ; Sect. 2.
 which she exercised by appointing the Duke of Connaught
 and Strathearn, K.G. The only duties attached by the Act to the office, are the approval of the scale of rental Sects. 33, 37,
 for the commoners, the appointment and removal of 38, 45.
 some of the officers of the Conservators, and approval of
 the amount of their fees or salaries and pensions ; the
 allowance of bye-laws, and matters relating to the police.

The Corporation of London were appointed Con- Sects. 3, 4, 8.
 servators of the Forest. The deer were transferred to
 them as objects of ornament in the Forest, and Queen
 Elizabeth's Lodge, as an object of public and antiquarian
 interest. Their duty is to keep the Forest unbuilt upon Sect. 7.
 and otherwise to protect and manage it (with large powers Sect. 33.
 of regulation) as an Open Space for the recreation and
 enjoyment of the public, and to preserve its natural
 aspect, its ancient remains, and its timber and underwood ;
 and to make bye-laws for its regulation. Sect. 36.

The illegally inclosed lands, except such as on 14th
 August, 1871, were already built upon or inclosed, and
 used as gardens and curtilages, and some others, were
 directed to be thrown open ; the value of the soil, Sect. 11.
 minerals, and timber being paid for by the Conservators ;
 who were also required to purchase such of the wastes
 actually lying open, as had not already been acquired by Sect. 12.
 the Corporation.

The Conservators were also to buy up or compensate Sect. 13 and
 the owners of the lopping rights over the Loughton Scheds. 1
 wastes, and of the fuel assignments, and rights of and 2.
 digging gravel ; the holders of the office of Lord Warden,
 and some other small rights.

The owners of the waste lands not thrown open were to pay for the quieting of their titles, such sums as
 Sects. 10—13, should be fixed by Sir Arthur (now Lord) Hobhouse, the
 16, 18, &c. Arbitrator appointed by the Act, by whom all disputed questions were to be settled, and whose awards were made absolutely conclusive upon all persons, including the Crown.

Sects. 29, 33
 (xvi.). The Act also preserved the right of the Forest parishes to nominate Reeves, whose appointments are to be completed by the Conservators.

Sect. 30. It appointed Sir Thomas Fowell Buxton, Bart., Sir Antonio Brady, Mr. Thomas Charles Baring, and Mr. Andrew Johnston to be Verderers until the 25th March, 1880; and provided that succeeding Verderers should be appointed by the registered commoners; the qualification being residence in one of the Forest parishes, or membership of the Court of Common Council of the City of London. The Verderers hold office for seven years, and casual vacancies are filled up by the Conservators. But the duties of the modern Verderers, like those of the modern Ranger, have very little connection with the duties attached to the ancient offices.

Sect. 31. The Conservators act by a committee of twelve, called the Epping Forest Committee, selected by the Court of Common Council. The Verderers are members of this Committee, but have no special powers.

Rep. of Epp.
 For. Com-
 mittee of
 Corp., 19
 Dec. 1882. The labours of the Arbitrator occupied four years. On the 24th July, 1882, he signed his final award, and the map of the Forest wastes, which were thenceforth to constitute Epping Forest. For the purposes of the arbi-

tration he held 114 public and many private meetings, and made 787 orders; and heard counsel, and received the testimony of a great number of witnesses on the many questions in dispute.

In accordance with his judgment, the fuel assignments in Waltham Holy Cross and Sewardstone, were extinguished on payment by the Corporation of 12,922*l.* 13*s.* as compensation, increased by the costs and other expenses to about 15,000*l.*; and the rights of lopping in Loughton on payment of the value of 7,000*l.* Consols; of this amount, 1,000*l.* was distributed among the cottagers who had exercised the rights, and the rest was paid to trustees as the foundation of a charity, to be called "The Lopping Endowment," for which a scheme was prepared by the Arbitrator. The sums to be paid by the holders of such of the illegally inclosed wastes as were not thrown open, in order to quiet their titles (the fixing of which involved questions of great difficulty), and by the Corporation for the purchase of the soil of those which were thrown open, and for the yet unpurchased open wastes with the timber upon them, were also ascertained: and the compensation for the remaining rights of the Lord Warden was fixed at 300*l.*, and for certain rights of digging gravel in the manor of Leyton at 800*l.*

Rep. of Epp.
For. Com.
of Corpn.,
p. 8.
Id. p. 18.

In the whole, the Corporation paid out of the metage of grain duty for the purchase of the soil and timber of the waste lands, and for the extinction of the wood and other rights, including interest and the costs of the conveyances, no less a sum than 227,117*l.* 16*s.* 8*d.*, reduced, however, by somewhat more than 21,000*l.*

Id.,
1st App.
pp. 36, 37.

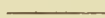
received for land sold, the quieting of titles, and other sources. And they paid besides nearly 33,500*l.* for the expenses incurred in Parliament, in the litigation before the Epping Forest Commission and the Court of Chancery, and in the protection of the Forest pending the proceedings; without reckoning the costs of improvements and management, down to the completion of the arbitration.

The Forest was thrown open to the public by the Queen at High Beech in the presence of a large assemblage of people, on the 6th May, 1882. And thus, by the exertions and at the sole cost of the Corporation of London, a district originally taken from the ancient folkland for the exclusive use of the Sovereigns, was, after many centuries, dedicated by the hands of their Successor to the use and enjoyment of her Subjects.

APPENDIX.



THE VERDERERS.



1250. Hundreds of Tendring and Lexenden at Alrefen.

Dominus Johannes de Boxstede.

Thomas Neward.

Hundreds of Turstapele and Wensetri, and half hundred
of Lexenden at Tiptre.

Robertus de Wintreflod, in the parts of Lexenden.

Ricardus de Andhonte, in the parts of Wensetri.

Ricardus filius Ada de Legera, in the parts of Turstapele.

Half hundreds of Wyham and Felstede.

Galfridus de Slaunundeshoe.

Radulphus de Stentone.

Hundreds of Chelmersford and Danesei.

Chelmersford.

Johannes de Bedelestede.

Bartolomeus filius fulconis.

Danesei.

Johannes de Walflet.

Radulphus de la Haya.

1250. Hundreds of Berdestaple and Chafford.

Chafford.

Dominus Henricus de Helehetone.

Dominus Willelmus Toral.

Berdestaple.

Simon de Duntone.

Thomas de Mockinge.

Half hundred of Chelmersford, in the parts of Writele.

Bertolomeus filius fulconis.

Hundred of Aungre and half hundred of Wantham.

Aungre.

Elija de la Frit.

Gregorius de Taydene.

Wantham.

Gilbertus de Eppinge.

Rogerus Levenoth.

Simon Sakesper.

Before 1277 Hamo, the Clerk.

1277. Half hundred of Lexenden.

Richard Baynard.

Half hundred of Wesentre.

Richard de Gilbeerake.

Half hundred of Thurstapele.

Luke de Aldeholte.

Hundred of Aungre.

Nicholas de Bruera.

William de Marny.

1277. Hundred of Wantham.

Adam le Gaunt.
Rogèr Levenoth.

1285. Regards of Chelmersford and Aungre.

Hubert de Waleys.
William de la Haye.
William de la Laneshende.
Walter de la Grane.
William Baudewin.
John Gobynn.
Robert le Norris.
Jeffery le Rous.
Adam de la Claye.
John Den.
Edmund de Nastok.
Adam le Gaunt.
John de la Mere.
John de la Donne.
Richard Bassingbourn.

1292. Regard of Aungre.

Adam le Gaunt.
Walter de Halefield.

1323-4. Half hundred of Wantham.

Vincent of Hertford.
Walter of Halyfield.

For the Forest.

1366. Radulphus Asselyn.
Thomas Smyth.
1489. Robert Plomer.
William Wything.
Edward Waren.
Thomas Broke of Berkyng.
1495. Richard Barley.
Edward Waren.

For the Forest—*continued*.

1590.	Francis Stonard.
1594.	Thomas Colshill.
	Barnard Whetston.
	Francis Stacey.
Before 1630	Clement Stonard.
	Edward Elrington.
	John Barefoote.
	William Cooke.
	Barnard Whetstone.
	John Pennington.
	John Haies } Removed by the King's writ as unfitted
	William Roe } for the office.
1630.	Sir Thomas Fanshawe.
	Tobie Wood.
	Carew Hervy, otherwise Mildmay.
1631.	Sir Nicholas Cooke.
	Sir Thomas Fanshawe.
	Toby Wood.
	Edward Elrington.
	Carew Harvy, otherwise Mildmay.
1634.	John Wood.
	Henry Elrington.
	Charles Hervey, otherwise Mildmay.
	William Conyers.
1637-8.	Toby Wood.
	Edward Keighley.
	William Conyers.
1638-9.	Charles Hervey, otherwise Mildmay.
	John Wood.
	William Conyers.
	John Goulding.
1641.	Charles Maynard.
	Edward Keighley.
	Carew Harvey, otherwise Mildmay.
	Edward Palmer.

For the Forest—*continued*.

1641.	Toby Wood. Carew Hervey, otherwise Mildmay. William Conyers. Edward Keighley.
1670.	Carew Hervey, otherwise Mildmay. George Scott. Henry Wollaston. William Maynard.
1670-1.	Sir William Holcroft.
1713.	William Scott. William Nutt. John Wroth. Carew Hervey, alias Mildmay.
1718.	Sir Thomas Webster, Bart., vice Wroth.
1721.	Sir John Eyles, Bart., vice Nutt.
1725.	Sir Henry Maynard, vice Scott.
1739.	William Harvey, vice Maynard.
1743.	William Harvey, vice Harvey. John Conyers, vice Carew Hervey, alias Mildmay.
1745.	John Goodere, vice Eyles.
1751.	Crisp Gascoyne, afterwards Sir C. Gascoyne, vice Webster.
1757.	Richard Lockwood, vice Goodere.
1762.	Bamber Gascoyne, ¹ vice Sir C. Gascoyne.
1767.	Sir William Wake, Bart., vice Harvey.
1771.	William Harvey, vice Conyers.
1779.	John Conyers, vice Harvey.
1785.	Eliab Harvey, afterwards Sir E. Harvey, K.C.B., vice Wake.
1792.	Sir William Smyth, Bart., vice Gascoyne.
1798.	Montagu Burgoyne, vice Richard Lockwood.
1812.	William Joseph Lockwood, vice Smijth.
1830.	Henry John Conyers, vice John Conyers.
1831.	William St. Julien Arabin, vice Harvey.

¹ His daughter and heiress married the second Marquis of Salisbury. He appears among James Sayer's political caricatures, under date 6th March, 1782.

For the Forest—*continued*.*Before 1843.*

J. P. Lockwood.
 William Whitaker Maitland ; and
 George Palmer, Junr., who survived his co-Verderers.

Appointed
 by Epping
 Forest Act,
 1878. }

Sir Thomas Fowell Buxton, Bart.
 Sir Antonio Brady.
 Thomas Charles Baring.
 Andrew Johnston.

THE FORESTERS.

CHIEF OR RIDING FORESTERS.

1250. Hundreds of Tendring and Lexeden at Alrefen.

Robertus de Musso.
 Adam de Tolleshunte.

Hundreds of Turstapele and Wensetre, and half hundred
 of Lexeden at Tiptre.

Wilhelmus del feu.

Half hundreds of Wyham and Felsted.

Johannes de Aungres.

Hundreds of Chelmersford and Danesei.

Radulphus Hotot.

Hundreds of Berdelstaple and Chafforde.

Rogerus Elis.

Half hundred of Chelmersford, in parts of Writele.

Robertus Page.
 Jordanus de Rammesden.

1250. Hundred of Aungre, and half hundred of Wantham
Holy Cross.

Petrus filius de Johannis.

Bailiwick of Alrefen and Kingswood.

About 1252. Symon Norman } in fee.
1292. Ralph de Mareschall }

1285. Regard of Aungre.

Richard de Hurst.

Roger Levenote.

Regard of Chelmsford.

Roger Bolle.

John de Wolanston (in fee, Horsefrith).

Hubert de Marny.

John Scurel.

1292. Hundred of Bekentre.

John de Chigwell.

1275 }
and 1292. } Half hundred of Waltham.

Henry Fitzaucher (in fee), vested in the Abbot of
Waltham in the 14th century.

The Forest.

1366. Simon Wynd.
John Colfr.
John Burghers.
Richard Leyton.

RIDING FORESTERS.

1489. John Froste.
1589. Robert Wroath.
1641. Endimion Porter.
1707. Francis Harvey, alias Mildmay.

The Forest—*continued.*

1720.	Carew Mildmay.
1723.	Baron Suasso.
1743.	Vacant till—
1747.	Hon. Josiah Child.
1760.	Charles Raymond, afterwards Sir Charles Raymond, Bart.
1788.	Vacant till—
1794.	The Rev. Thomas Abdy Abdy, Clerk.
1800.	John Bullock.
1808.	William Bosanquet.
1813.	John Rigg.
About 1817.	John Wright.

CHIEF FORESTERS OR MASTER KEEPERS.

1489. Bailiwick of Stratford.

John Pagyn-ton.

Bailiwick of Inholt.

Matthew Sharden.

Bailiwick of Waltham.

Thomas Austyn.

Bailiwick of Ongre.

Christopher Stubbys.

1495. Half hundred of Waltham.

Robert Cot.

Hundred of Ongar.

Reginald Moore.

East or Chapple Hainault Walk.

1590.

Sir Henry Graye.

Before 1630.

Sir Gawin Hervy.

East or Chapple Hainault Walk—*continued*.

1630.	Sir Henry Edmonds.
1641.	Anthony Eyres.
1707.	John Cross.
1713.	William Graham.
1724.	Sir John Eyles, Bart.
1726.	Lord Castlemain, afterwards Richard Earl of Tylney.
1749.	John Earl of Tylney.
1771.	Andrew Moffat.
1785.	Samuel Pole.
1788.	John Moffatt.
1796.	William Raikes.
1801.	William Matthew Raikes.
1814.	Jeremiah Harman.

Lamborne and Chigwell Walk.

1590.	Robert Wroth.
1707.	William Harvey ¹ (Lamborne).
1725.	Lord Castlemain, afterwards Richard Earl of Tylney.
1749.	John Earl of Tylney.
1771.	Charles Raymond, afterwards Sir C. Raymond, Bart.
1785.	John Williams.
	Job Mathew.
1802.	John Rutherforth Abdy.

Epping Walk.

1590.	Sir Thomas Heneage.
1641.	James Earl of Carlisle.
1707.	Sir Thomas Webster.
1725.	Whisler Webster.
1753.	Godfrey Webster.
1782.	John Conyers.
1830.	Henry John Conyers.

¹ In several of the Rolls the names of William Harvey and of William Harvey, Junr., keeper of Loughton Walk, appear to have been transposed by mistake.

Fairmead or New Lodge Walk.

1634.	Edward Earl of Norwich.
1707.	Late Robert Sotherby.
1713.	 Southerby.
1742.	William Sotheby.
1744.	Edward Southerby, sworn 1747.
1788.	William Southeby.
1823.	W. Sotheby to October, 1848.
1848.	Charles Sotheby.

Woodford Walk.

1590.	Robert Lee, or Leigh.
<i>Before 1630</i>	Sir Robert Wroth.
	William Earl of Pembroke (with Loughton).
1630.	Sir Robert Hatton.
	Philip Earl of Pembroke and Montgomery (with Loughton).
1707.	Robert Bullock.
1713.	Robert Chester.
1733.	Sir Joseph Eyles.
1740.	Sir Joseph Hankey.
1770.	Charles Foulis.
1785.	Samuel Bosanquet.
1803.	John Rigg.
1813.	Sir Robert Wigram, Bart.
1831.	Peter Mallard.

Walthamstow Walk.

1590.	William Roe.
<i>Before 1630</i>	Sir Robert Wroth, with Loughton, Woodford, and Leyton.
1634 & 1641	Sir Thomas Hatton.
	Sir Henry Rowe.
1707.	Late Sir Josiah Child.
1713.	Rowland Winne.
1718-19.	Christopher Crow.
1737.	William Hunt.

Walthamstow Walk—*continued*.

1749.	John Earl of Tylney.
1750.	Theophilus Salway.
1760.	Peter Newman.
1771.	Anthony Bacon.
1779.	John Bristow.
1782.	George Biggin.
1786.	Thomas Grosvenor.
1795.	George Bowles.
About 1817.	Charles Callis Western.
1831.	Thomas Baucutt Mash.
1857.	Alderman W. T. Copeland.

Loughton Walk.

1590.	Robert Wroth, with Chingford.
Before 1630	Robert Wroth.
	William Earl of Pembroke, with Woodford.
In 1630 } and 1641. }	Sir Thomas Lake.
1707.	Philip Earl of Pembroke and Montgomery, with Woodford.
1714.	William Harvey.
1743.	William Harvey, Junr.
	James Langston and
	James Haughton, and the survivor of them.
1750.	James Langston, formerly James Houghton.
1771.	James Houghton Langston.
1795.	William Mellish.
1857.	. . . Marsh.

Chingford Walk.

1590.	Robert Wroth, with Loughton.
1634.	Edward Earl of Norwich, with Epping.
1701.	Robert Boothby.
1733.	Thomas Boothby (Frances his wife and Robert his son for their lives and the life of the survivor).
1735.	Frances Boothby.

Chingford Walk—*continued*.

1737.	Benj ^a Moyer [in right of his wife late widow of Thos. Boothby.]
1760.	Robert Boothby.
1777.	John Heathcote.
1785.	Frances Moyer, widow.
1812.	Lydia Heathcote.
1857.	 Whiteman.

Leyton and Wanstead Walk.

1590.	Thomas Powle.	} Leyton.
1594.	Ralph Colston.	
<i>Before 1630</i>	Sir Robert Wroth (with Loughton, Woodford, and Walt-	
1634.	Sir Robert Quarles (with West Hennalt). hamstow).	
1709.	. . . Doleman.	
1713.	Jeremiah Gough.	
1716.	Sir Richard Child.	
1717.	John Letheulier.	
1737.	Richard Earl of Tylney.	
1749.	John Earl of Tylney.	
1785.	Sir James Tylney Long, Bart.	
1796.	William Bullock.	
1813.	Charles Danvers.	
1831.	William Richard Arthur Long Wellesley, afterwards Earl of Mornington.	

West Hainault Walk.

1590.	Sir Henry Graye, with Chapple Haynault.
<i>Before 1630</i>	Richard Hart.
	Christopher Hamond.
1634.	Sir Robert Quarles.
1641.	Francis Petre.
1707.	George Smith.
1713.	Sir Richard Child, afterwards Viscount Castlemain, and
1720-21.	John Prince. Earl of Tylney.
1769.	John Earl of Tylney.
1771.	Charles Raymond, afterwards Sir C. Raymond, Bart.

West Hainault Walk—*continued*.

1785.	John Williams.
1790.	Donald Cameron.
1797.	James Hatch.
1807.	Charles Smith.
1812.	John Maitland.
1831.	Charles Sotheby.

THE REGARDERS.

1250. Hundreds of Turstapele and Wensetri and half hundred
of Lexenden at Tippetri.

Ricardus de Wiremundeforde, in the parts of Turstapele.
 Rogerus de Ponte, in the same parts.
 Willelmus de Oxstone, in the parts of Wensetri.
 Stephanus de Cheriton, in the same parts.
 Hubertus de Beccingham, in the parts of Lexenden.
 Radulphus Olivere, in the same parts.

Half hundreds of Wyham and Felstede.

Dominus Luccas de Terlinge.
 Petrus de Redlege.

Hundreds of Chelmersford and Danesei.

Johannes de Lindwode.
 Willelmus de Laundre.
 Adam Mercater de Ginge Laundre.
 Willelmus Herward.

Hundreds of Berdelstaple and Chafford.

Robertus de Fonte.

1250. Half hundred of Chelmersford, in the parts of Writele.
Willelmus de Alneto.

Hundred of Aungre and half hundred of Wantham Holy
Cross.

Hundred of Aungre ?

Johannes Clericus de Taydene.
Hamo de la Heg de Bolbingworpe.
Willelmus filius Galfridi.
Ricardus gumeter (?) de Lakefare.

Half hundred of Wantham.
Adam de Mapeldere.

1277. Regard of Colchester.

Sewalas de la More.
Robert le Paumer.
William de la Holte.
Roger Neward.
William de Samaunestone.
William John.
Rotehinius de Leyre.
John le Nevon.
Bartholomew de Mora.
John de Netinge.
Nicholas, son of Ralph.
Richard le Velu.

Regard of Aungre.

Maerus de Theydene.
John Clerk.
Thomas le Walays.
Nicholas de Fishyd.
Elias de Camera.
Hugh, son of Benedict.
William Champeneys.
John, son of Ivon.

1277. Regard of Aungre—*continued*.

Nicholas Burde.
John Olive.
Walter de Molendino.
John de Ecclesia.

1292. Regard of Colchester.

William de Samantone.
John Oliper.
Roger Neward.
Richard le Paumer.
William, son of John.
John de R^y.
Roger Bakum.
William de Leys.
Richard de Rowe.
John Noven.
Roger de Onefaye.
Bartholomew de la More.

Regard of Aungre.

Saer de Theyden and others.
Ralph Marton and others.

1366. Hundred of Chelmsford ?

Edward Warner.
Nicholas Clerk.
Robert Bolton.
Peter atte Hyde.
Richard Lambekyn.
Walter atte Lee.
Richard Blake.
William Bedel.
Thomas Belhous.
Thomas Hughe.
John de Kent.
Thomas de Benyngton.

Hundred of Chelmsford—*continued*.

1489.

Philip Cooke.
John Symondys.
John Brewster.
Thomas Trappys.
Reginald Garston.
John Hale.
Henry Lover.
Thomas Froste.
John Grene.
Richard Jenyn.
William Okelee.
William Johnson.
Thomas Harewell.
John Legge.
Thomas Broke of Layton.
John Frensh.
William Stondon.
John Hedges.

1495. Hundred of Aungre.

William Cooke.
John Grene.

1594. Half hundred of Waltham.

Thomas Rampstone.
William Scott.
George Nodes.
Edmund Winch.
Thomas Barnes.
Thomas Taverner.
Henry Palmer.
George Broocke.
James Atkin.
Edward Scarle.

1594. Half hundred of Waltham—*continued*.

John Cheyney.

Andrew Fuller.

1630, 1631, & 1634.¹

Richard Searle.

Thomas Winch.

Edmond Cooke.

² John Gooldinge.

Thomas Stocke.

William Yonge.

William Stanes.

³ Thomas King.

Richard Maynard.

⁴ William Gilsthroppe.

William Finch.

Robert Shurley.

Richard Waylett.

1638.

Richard Searle.

⁵ Edmond Cooke.

William Stone.

⁵ Richard Maynard.

William Millington.

⁵ Ralph Barker.

Nicholas Spackman.

⁵ John Goulding.⁵ William Waylett.

Philip Capper.

John Winche.

Richard Haddon.

John Searle.

¹ But at the foot of the Roll the name of Thomas King is replaced by that of William Waylett.² Omitted in the list for 1631.³ Omitted in 1634.⁴ John Peachie in his place in 1631 "for this turn only."⁵ Only these Regarders signed the Roll.

1641. Hundreds of Waltham and Becontree.

Richard Searle.
 Thomas Winch.
 William Stanes.
 Richard Maynard.
 John Goulding.
 Edward Cooke.
 Ralph Barker.
 Nicholas Spackman.
¹ William Millington.
 William Waylett.
 Richard Hadden.
 William Johnson.

Hundred of Chelmsford.

Jacob Maldon.
¹ William Aylett.
¹ John Crush.
 Thomas Sorrell.
¹ William Burchard.
 Thomas Rochell.
 Ralph Coker.
 William Pond.
¹ Jessey Polley.
¹ John Chalke.
¹ William Crush.
 Thomas Say.

Hundred of Colchester.

William March.
 Edward Neale.
 Lucas Bennold.
 William Ballard, in place of Thomas Ham
 William Armstead „ Thomas Turner } pro hac
 John Stevens „ Thomas Porter } vice
 Andreas Damyon.

¹ These signed the roll.

1641. Hundred of Colchester—*continued*.

John Harrington, in place of John Hasler	} pro hac vice.
Edward Fulham ,, Richard Sheppard	
Richard Stock ,, William Clarke	
Robert Bird ,, Thomas Bacon	
Jeremiah Eades.	

Bailiwick of Ongar.

¹ John Aylett.¹ Roffe Pettus.¹ John Convers.¹ John Stocke.

John Glascock.

¹ Christopher Searle.¹ William Collyn.¹ Isaac Davies.

Abraham Croshier.

¹ Samuel Coleford.

Zacharias Bell.

¹ Nathaniel Addams.

Geoffry Lee.

² John Searle.² Thomas Pearle.² Edward Wallmer.² Richard Waylett.

Richard Stephens.

² Henry Webb.² Martin Trott.² John Davis.

Benjamin Finch.

Walter Pelling.

² Edward Goldinge.² Thomas Haselfoote, sworn in the place of Thomas Caunt, absent from sickness.¹ These signed the roll.² Only these Regarders signed the roll. Contrary to the usual practice, there were thirteen, instead of twelve, Regarders on this occasion.

THE KING'S WOODWARDS.

1630.	Robert Barefoote.
	John Holmes.
1634.	Gerson Holmes.
1707. ¹	Gilbert Jones.
1713-14.	Henry Foster.
1714.	George Waters.
1733.	William Mason, Junr.
1736.	Richard Arnold.
1753.	John Brookes.
1755.	Edward Meredyth.
1761.	Richard Pater.
1770.	Edward Meredith.
1785.	John Fuller.
1791.	Richard Hould.
1810.	James Tomlins.
1830.	William Turner.
1831.	James Sherman Spering.

¹ From the schedule to the conveyance of the Stewardship to Sir Richard Child in 1709, Pen. Trustees of Lord Mornington. The names after 1709 are from the Attachment Rolls.

THE PERAMBULATION OF THE FOREST OF WALTHAM, IN
THE COUNTY OF ESSEX; MADE IN THE 28TH AND
CONFIRMED IN THE 29TH YEAR OF EDWARD I.
(1301).

THE King, to all to whom these presents shall come, greeting. Know ye that whereas the Commonalty of our Kingdom have granted us a fifteenth of all their moveable goods which they shall have at Michaelmas next to be then assessed, which fifteenth, after the same assessment, ought to be collected, raised, and faithfully paid to us, we desire and grant for us and our heirs that the perambulations made before our beloved and faithful Ralph de Hengham and his associates, for this purpose assigned by our writ, concerning our Forests in the county of Essex, be held and observed by the metes and bounds asserted in the same perambulations, the tenor whereof, word for word, is as follows:—

Ch. Misc.
Roll, No. 113,
27 to 29 Ed. 1.

Perambulation of the Forest in the county of Essex, made at Chelmsford, on Friday, the morrow of the Ascension of our Lord, in the 28th year of the Reign of King Edward, son of King Henry, before the Lords Ralph de Hengham, William Tressell, Stephen de Graveshend, and William de Sutton, Justices of the lord the King assigned to make the said perambulation, videlicet by the Lords Robert De St. Clare, Hugh le Blund, Thomas de Moundevill, Walter le Band, William de Hanyngfeld, John Heron, Ralph de Hemenhale, William de Horkeleye, John de Preers, John de Sutton, Knights; John Dewe, John Malegraffe, Matthew de Branketre, Sewall de Waleton, Edmund de Badewe, Richard de Clovill,

Roger Bokscyn, Richard le Dick, Robert le Waleys, Thomas de Seven Springs, Warren Code, William de la Rokele, John de Slamondeshey, Luke Morel, and Thomas de Ulting, Jurors, who commenced the aforesaid perambulation the day aforesaid at the bridge of Stratford called La Bowe, under which runs the river of Luye; and so going in the hundred of Bekentre by the King's highway even to Hyleford [Ilford], and from Hyleford straight by the same King's highway which leads towards Romford as far as a certain Cross set at the head of a certain lane called Wytheslane in the town of Havering; and from that Cross returning towards the south, by the hedge which is the boundary between the land of Gilbert Godebold of the fee of the Abbess of Berkyng, and the land of John Atte Wythe of the fee of Havering, which hedge is the boundary between the vills of Havering and Dakenham; and so by that hedge as far as the ditch of John le Franssch and Agnes atte Wythe of Dakenham. And by that ditch as far as the King's highway which leads from Yleford to the Horned Monastery [Hornchurch], as a certain water runs from across the same highway, which water is called Wythedenbroke, and is the boundary between Havering and Dakenham. And from that water as far as a certain place called la Berwe with all the piece of land in which is the aforesaid place called la Berwe, as the boundary extends between the vills of Havering and Dakenham as far as a certain stream of water called the Borne, which water runs down from a certain spring called Haveringwelle as far as a certain place called Dakenhambeem, and from that place as far as the line of the water of the Thames by a certain ditch called Markedyke, between Havering and Dakenham; and so by the Thames as far as the fleet called Wadelet, extending itself as far as a certain bridge called Reynhambeem, which fleet separates the vills of Havering and Reynham in the hundred of Chafford; and from that bridge called Reynhambeem, straight as far as the bridge called Dellebrigge, as the water runs which is the

boundary between the hundreds of Bekentree and Chafford; and from the same bridge as far as a certain other bridge called Weldebornbrigge always by the stream which divides the vills of Havering and Welde Albatis; and from that bridge by the same stream as far as a certain boundary called Markethorn which divides the vills of Havering, Welde Abbatis, and Nastok, in the hundred of Aungre; and so in the hundred of Bekentre remain wholly in the Forest the vills of Havering with its appurtenances, Wansted, Leyton, Welcomestowe, and Wodeford; and the vills of Stratford in Westhamme, Easthamme, Hyleford Parva, Berkyng, and Dakenham, in part remain beyond the Forest, and in part remain within the Forest as by the metes and bounds they are above more fully bounded. And so going from the aforesaid boundary Markethorn always by the said stream as far as the house of Robert the Tanner, of Nastoke, in the hundred of Aungre; and from that house as far as the messuage of William son of Hugh de Nastok; and so from thence to a hedge straight as one goes to the house of Edmund de Nastok, and from that hedge as far as a certain messuage of Henry de Wykeham of the same [vill] and from that messuage as far as a certain place called Frythstigele in the same [vill]; and from that place as far as the land of John de Stodeley; and from that land as far as the divided stream; and so always by the same stream as far as the bridge called Pyssyngfordebregge by the mid-stream; and from the said bridge by the mid-stream as far as a certain bridge called Affebregge; and from that bridge going straight to the church of Theydon Boys; and from the same church as far as the messuage of John de Russelep, opposite the messuage of the rector of the church of Theydon Boys; and from that place returning by the side of the wood of the said rector and Gilbert de Theydon as far as the messuage of the same Gilbert, and from the said messuage again returning by the hedge of the said Gilbert, as far as the messuage of John Sprigg; and so from that messuage by the lane lying before

the messuage aforesaid called Sprigges' Lane, as far as the house of Roger atte Fryth; and from that house direct to the house of William le Gardiner in the same vill, lying upon the side of Eppyngheth; and from that house returning by the boundary which separates the half hundred of Waltham and the hundred of Aungre straight even to the head of the wood called Old Wyntre; and from that wood by the King's highway which is the boundary of the aforesaid hundreds of Aungre and Waltham extending to the wood called Gernonneswode in the vill of Theydon Gernon; and from that wood as far as the oak called Markoake, which is the boundary between the lands of the Abbot of Waltham and Robert the son of Walter, and William Gernon; and so returning by the King's highway which extends between the lands of the aforesaid Abbot of Waltham and Robert the son of Walter, straight even to a place called Reodegate in the vill of Welde; and so in the hundred of Aungre remain entirely within the Forest the vills of Loketon, Chygewell, Lamborn, and Stapleford Abbatis. And the vills of Nastoke and Theydon Boys in part remain within the Forest, and in part beyond the Forest, as above by the metes and bounds they are more fully bounded; and all the rest of the vills in the hundred of Aungre aforesaid, ought to remain beyond the Forest. All the half hundred of Waltham remains wholly within the Forest without exception. All the half hundred of Herlawe remains beyond the Forest, except the villate of Hatfield Regis with its appurtenances, which wholly remains in the Forest, because it is ancient demesne of the lord the King, as also the hamlet called La Walle, and the wood called Monckenewod, with their appurtenances. All the hundred of Chelmsford remains beyond the Forest, except the villate of Writell which wholly remains in the Forest with its appendages, because it is ancient demesne of the lord the King.

Item, it [the Forest] begins at Colcester at the bridge called Northbregg, going by the King's way leading to

a certain Cross called Mylandecrouche placed at the head of a certain heath called Kynggeswodeheth, and so from thence before the house of Richard Martyn, even to a certain hedge before the house of William Waryn of Colcester; and so going by the ditch of the said heath as far as a certain open space called Kynggeswodehach, which is the boundary between the vills of Horkeleye and Kynggeswodeheth; and so straight by the ditch of Phillip at Hacche, as far as the house of William le Herde of Horkeleye, formerly of Edmund atte Hache; and so by a certain ditch extending between Horkeleye and Kynggeswode even to a certain boundary which divides the vills of Horkeleye, Bexsted, and Kynggeswode; and from that boundary by a certain ditch which divides Bexsted and Kynggeswode as far as a certain other boundary which separates the wood of Ralph de Bexsted and the wood of John le Breton; and so going by the ditch which separates Kynggeswode and the wood of the aforesaid John le Breton, as far as the ditch of the park of Lengham; and so by the aforesaid ditch as far as a place called Kynggeswodebregg at the side of the said park; and so returning by the King's highway which leads towards Colchester, as far as the bridge called Estbrigge; and from the said bridge of Estbrigge as far as a certain Colchester gate called Estgate, with all the aforesaid vill of Colchester within the walls, with all the demesnes of the lord the King to his castle of Colchester belonging. And so in the hundred of Lexeden remains wholly in the Forest the vill of Myland, with the wood of Kynggeswoode with its appurtenances.

And they say also that the hundreds of Westhodeleford, Esthodeleford, the half hundred of Frossthewell, and the half hundred of Clavinger are wholly beyond the Forest, and were so from time out of mind.

Item, they say that the hundreds of Dunmowe, Hengeford, and Lexeden from the north part of the Stanstrete which leads from Storteford to Colchestre, are beyond

the Forest by the purchase of Alberic, formerly Earl of Oxford.

Item, they say that so much as is on the south of the said Stanstrete in the aforesaid hundreds of Dunmow, Lexeden, and Hengeford, ought to remain beyond the Forest, except that which is above mentioned in the hundred of Lexeden in the vill of Colchester, and except the vill of Felsted with the wood of Blakholehey with their appurtenances in the hundred of Hengeford; which same manor of Felsted with the wood of Blackholehey aforesaid, with the appurtenances, the Abbess of Caen holds by gift of King William the Conqueror of England, and claims to hold it as freely as the same manor and wood were held in the time of St. Edward King of England. But notwithstanding we say that the aforesaid manor with the aforesaid wood with their appurtenances, ought wholly to remain within the Forest.

Item, they say that the hundreds of Tendryng and Rocheford are wholly beyond the Forest, and were so from time out of mind.

Item, they say that the hundreds of Chafford, Berdestapel, Daneseye, and the half hundred of Wytham; and the half hundred of Thurstaple, and the half hundred of Wenestre ought wholly to be beyond the Forest according to the tenor of the Great Charter of the Forest, because they were afforested after the coronation of the lord King Henry, grandfather of the lord King Henry, father of the now lord King Edward, and by the Kings Richard and John.

Which appointed perambulation is so far made clear and evident according to our intelligence and good conscience, as we have learned from our ancestors, and by the oath of honest knights and trustworthy ancient men now living and deliberating by reason of the great length of time passed since any such other perambulation in the county of Essex has been made. And better and more fully upon the perambulation aforesaid we desire that it be cer-

tified as well for the right of the lord the King as of his people. If the same lord the King had any other clear proofs it should have pleased him to have given them in charge to us and to others in his kingdom within the limits of his Forest as in the last Parliament at Westminster he promised and granted. In witness whereof to this present perambulation we, the aforesaid Jury, have set our seals.

Dated at Chelmsford the day and year aforesaid.

So that whatever by these perambulations is placed beyond the Forest, let it remain beyond the Forest, and let the rest remain in the Forest according to the said metes and bounds for ever. In testimony of which we have made these our letters patent. Witness ourself at Lincoln the 14th February in the 29th year of our reign.

ABSTRACT OF PERAMBULATION OF THE FOREST OF
WALTHAM, IN THE COUNTY OF ESSEX, IN THE 17TH
YEAR OF KING CHARLES I.

Petty Bag
Office,
16 August,
1641.

INQUISITION taken at Stratford Langthorne on Wednesday,
8th September, 17th Charles I., &c.—

Before Sir Thomas Bendish Bart., Sir Benjamin Ayloff
Bart., Sir William Roe Knight, Sir Henry Holcroft Knight,
Sir William Martyn Knight, Sir Gamaliel Capell Knight,
James Allham Esq., William Conyers Esq., Thomas Fan-
shaw Esq.; Edmund Keightly Esq., Carew Hervey otherwise
Mildmay Esq., and Edward Palmer Esq., three of the Ver-
derers of the Forest; John Wright Esq. and William Alwood
Esq., Commissioners to inquire into the boundaries of the
Forest according to the tenor of the Act for the certainty of
Forests.

The persons summoned, who, except one Esquire, all had
the rank of Gentlemen, were Thomas Manwood, Peter Whet-
combe, John Sorrell, John Levett, William Gray, Thomas
Aylett, Francis Nicholson, George Thorowgood, Thomas Lake,
Robert Brage, Samuel Plume, George Gittens, John Wright,
William Lake, William Finch, Robert Dawges, Lany Rous,
Edward Fulham, John Meade, George Sames, Samuel Free-
borne, George Saville, Henry Smith, Edward Digbie, and
Edward Humfrey.

They appeared, and in the presence of the Commissioners,
and of Thomas Coke, Steward of the Forest; Richard Searle,
William Stanes, William Waylett, John Gouldinge, Thomas
Winch, Richard Maynard, William Johnson, Ralph Barker,
William Millington, Richard Haddon, and Nicholas Spack-
man, Regarders of the Forest; and of John Betts, Richard

Belch, William Wills, Idwain Knight, John Cox, Henry Breame, William Comes, Edward Hoy, and William Sawdery, Sub-foresters (Breame being also Sub-ranger of Havering, and Wills Sub-ranger of Epping, and Woodward of Sewardstone and Woodridden fee); and of George Floade, Sub-ranger of Leyton, and Edward Batty, Sub-ranger of West Hainault, and John Knight, Sub-forester, riding the whole Forest; the Jurors were sworn and charged to inquire into the metes and bounds, which were the metes and bounds of the Forest in the 20th year of King James.

They returned the bounds¹ as follows:—

From the bridge of Stratford, called The Bow, into the hundred of Becontree by the King's highway to Great Ilford, and thence direct by the King's highway towards Romford to the Whalebone at the "four Wonds," and thence along the highway to Havering Stone at the head of Beamesland Lane, and along the lane unto and in the way leading from the four ways towards Collier Row, near the mansion house of the Manor of Marks to an elm tree marked with a cross at the right of the way where there is a gate leading into Mark's Warren, and a stone called Mark's Stone; and thence to the warren eastward, by the boundaries between Dagenham and the liberty of Havering, to the Warren Stone at the corner of the warren; and thence by the said bounds to the Collier Row Stone near the messuage called Captious; and from thence by the same bounds to Park Corner Stone at the west corner of Havering Park; and thence by the park pales to the Bourne Brook, and along its banks to the Navestock Stone near the house of Robert Makin in that parish; thence to the right by the side of Navestock Common to Richard's Stone near Richard's Gate, and by the hedge of Robert Makin's land to Overmead Gate; thence to and along the river of Roden to the bridge of Aybridge, and across it by the highway past the church of Theydon Boys to the house

¹ See map opposite p. 50.

of the rector, to Theydon Green Gate; and thence by the purlieu hedge to the corner of the hedge called Piershorne [Priorshorne] Corner, and by the purlieu hedge to the end of Hawcock Lane, and so to the bank near the end of the town of Epping called "Purlieu bank," and by it to Bennett's Corner, according to the bounds of Epping and Theydon Gernon; including in the Forest the whole parish of Epping, and excluding the whole parish of Theydon Gernon; and so by the bank to the end of Duck Lane, and to the corner of Thornwood Common, and by the Purlieu bank near the hedge on the south side of the common, to a brook which runs from a ditch below that hedge and the Purlieu bank, near an elm tree which is the boundary between Epping and Northweald Bassett, and between the half hundreds of Harlow and Waltham; and further by the brook, to the ditch before the mansion of William Sprangers upon the side of Thornwood Common; and thence returning by the ditch to the mansion of Daniel Hudson by the side of the same common, and so by the bounds of the said half hundreds to a free hedge called Linceley Gate, including within the Forest the piece of Thornwood Common within the brook, and the house of Daniel Hudson, and Halye's Grove, and the lands there within the half hundred of Waltham; and so by Linceley Gate to the land called Linceley Merles, and from thence over the bank of Millmeade Brook by Eastfield hedge to Lyme Holes Corner, and over the highway leading to the church of Epping to Pincroft, leading to Pymbridge, and thence by the Purlieu hedge to Cloggett's Gate entering into the highway leading to Siviars Green and descending in Kennett's Lane to Bradley [Broadley] Common, and by the side of it round the hamlet of Roydon, to the river of Lee; and thence to a corner of Ody Marsh, and so passing over the Lee, including in the Forest Hollyfield Marsh, to and over a meadow called the Frythie at the Shire Lake, to Hooke's Marsh; including in the Forest Hooke's Marsh and

Normarsh; and so by the Lee including Waltham Great Marsh, and over the ditch there to and by the side of Smalley Bridge, by the brook, to the right of the highway leading to Waltham Abbey to Coldhall; and beyond Coldhall by the brook which divides Essex and Hertfordshire, to the river there, including in the Forest the marsh called Canwards; and from thence to Cobbin Mouth, and from thence by the Lee to Spencer's Mead, and by the river to Sywardstone Ford; and from thence over Ware Marsh to Marditch, and by it to the Lee, and by the Lee to Broadmead in Walthamstow; and thence to Lock Bridge broken up, where for passage is used a ferry, and thence by the Lee to the bridge of Stratford Bow, called Bow Bridge. It was also found that in the hundred of Becontre there remained within the Forest, the towns of Wanstead, Leyton, Walthamstow, and Woodford, and that of the lands and woods of the towns of Stratford Westham, Eastham, Ilford Parva, Ilford Magna, Barking, and Dagenham, the parts which lay to the right of the highway leading from Stratford Bridge to Romford were without, and the parts to the left were within, the Forest. The liberties of Havering-att-Bower and Havering Park, with the lands in Hornchurch, Rumford, and Haveringe; and other parishes and members appendant to the liberty, were wholly out of the Forest. In the hundred of Ongar, the towns of Lucton or Loughton, Chigwell, Lamborne, and Stapleford Abbots were within, the towns of Naverstock and Theydon Boys partly within and partly without, and all the residue of the towns in the hundred without the Forest. The whole half hundred of Waltham (except any lands disafforested by charter) was within the Forest; and the whole half hundred of Harlow, and the hundreds of Uttlesford, Hinckford, Lexden, Tendering, Dengie, Wytham, Chelmsford, Dunmowe, Claveringe, Freshwell, Chafford, Barstaple, Thurstaple, Rochford, and Winstree, were wholly out of the Forest.



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